UNITED NATIONS

CEDAW

Convention on the Elimination of all Forms of Discrimination Against Women

Distr.
GENERAL

CEDAW/C/5/Add. 22
14 August 1984

ORIGINAL: ENGLISH

Committee on the Elimination of Discrimination
Against Women (CEDAW)
Fifth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER APTICLE 18 OF THE CONVENTION

Initial reports of States Parties

DENMARK

V.84-89176

PART I

re (a) - (d):

When Denmark ratified the Convention in 1983, most of the measures to be taken by States Parties in pursuance of the Convention had already been adopted in Denmark. Consequently, the ratification of the Convention has not per se been of any significance so far in connection with the introduction in Denmark of equality of men and women.

The establishment of the Equal Status Council represents the most important measure adopted at the government level to eliminate discrimination against women.

The Equal Status Council (ESC) was set up administratively in November 1975 as an agency under the Prime Minister's Office. This step was taken on the recommendation of the Commission on the Social Status of Women.

The Equal Status Council Act (No. 164) of 12 April 1978 gave statutory effect to the establishment of the ESC. This happened in conjunction with the passage of the Equal Opportunities Act (No. 161) of 12 April 1978 providing for equal access of men and women to employment, education, etc.

These two Acts, together with the Equal Pay Act (No. 32) of 4 February 1976 embody the rules of Danish law relating specifically to equal rights of men and women (see comments re Article 11, 1(a) - (d)).

The Equal Status Council Act provides that the Council shall promote equality of men and women in society, at work,

in training and education, and in family life. The Terms of Reference of the ESC, laid down by the Prime Minister, define the duties of the Council more precisely in stating that the Council shall

- follow developments in society, including legislation, and on the labour market;

- identify areas in which existing practices counteract equal status, and recommend measures to eliminate inequalities arising out of such practices;

- function as advisory organ for central and local government authorities in matters relating to equality of men and women;

- make proposals for research on equality and promote information work on questions of equality, inter alia through the medium of publications;

- give opinions - based on the provisions of the Equal Opportunities Act - in cases where exception from the Act is applied for (section 11).

On the recommendation of its Labour Market Committee, the Council makes advisory statements in connection with processing of applications for exception from application of sections 2-6 of the Equal Opportunities Act providing for promotion of equal opportunities. Measures recommended by the ESC in this respect are primarily designed to remedy de facto inequalities which affect access to employment, vocational training, etc. - the socalled positive discrimination measures.

In such matters, the competent Minister, acting in consultation with the Ministry of Labour and the Equal Status

Council, may grant exception from the Equal Opportunities Act where a person's sex is a genuine occupational qualification.

The Equal Status Council is composed of eight persons, all appointed by the Prime Minister. The chairman is selected by the Prime Minister. Of the remaining seven members, four are nominated by, respectively, the Danish Trade Union Congress, the Employers' Confederation, the Joint Council of Public Servants and Salaried Workers, and the Federation of Greenland Women Associations, and three by the National Council of Women. Appointments are for four years. Deputies are appointed for all the members.

A review of the activities of the Equal Status Council within the various spheres covered by the Convention is presented in part II.

1. re (e):

General principles of Danish law on the impact on domestic law of international conventions and other legal instruments, which are binding upon Denmark under international law.

The Danish Constitution contains no express provision with regard to the effect of a validly concluded treaty on domestic law. The legal principles governing this question are, however, quite clear.

Under Danish law provisions of a treaty, which are binding upon Denmark, are, generally speaking, not directly enforceable by Danish courts of law or by Danish administrative authorities. In case a provision of a treaty lays down a rule which is inconsistent with an express provision of a domestic statute or other rule of law the domestic rule prevails, and that rule, not the treaty provision,

must be applied by Danish law-enforcing authorities. Neither can a provision of a treaty serve as legal authority for those acts of Danish authorities, which under domestic law may be carried out only when authorized by law. Consequently any provision of an international treaty in order to be enforceable by Danish courts or administrative authorities has to be transformed into an internal law or an administrative regulation.

The traditional method in Denmark, for transforming treaties is to reformulate the treaty, or rather the part of it that needs implementation, in a statute or administrative regulation. But a treaty may also be adopted or incorporated into Danish law by statute or administrative regulation. In the latter case the text of the treaty is directly applicable in Danish law, but only to the extent specified in the domestic legal instrument concerned.

Of course, the contracting of an international obligation does not always make it necessary to pass a statute or other domestic rule of law, transforming the pertinent provisions of the treaty into internal law. This becomes necessary only to the extent that the provisions of a treaty do not conform to a pre-existing legal situation.

2. The impact on domestic Danish law of the Convention on the Elimination of All Forms of Discrimination against Women

When considering ratification by Denmark of the Convention on the Elimination of All Forms of Discrimination against Women it was found that principles and rules similar to the provisions of the Convention were to a large extent already in force in Denmark by virtue of express statutory provisions, and of general principles of Danish law.

The explanatory memorandum appended to the proposal for parliamentary consent to ratification of the Convention contained a survey of the legal situation in Denmark covered by the Convention. Against the background of principles outlined above and in accordance with ordinary practice, a general incorporation by statute of the Convention was regarded as unnecessary.

It should, however, be stressed that this, of course, does not imply that the Convention is without legal impact in Denmark. The provisions of the Convention serve as a basis, binding upon Denmark under international law, for a corresponding set of domestic rules of law. The practice generally followed by Denmark does, however, raise a question as to what legal situation is, if these corresponding rules give rise to doubts as to their proper interpretation, or if they are amended in a way which is in conflict with the underlying international obligation.

On this point a principle generally recognized in domestic legal systems comes into play, i.e.: that in the event of ambiguity the domestic rules should be interpreted in accordance with the State's international obligations.

This rule is also recognized in Danish law, but its contents and scope under Danish law have been greatly clarified during the debate on the constitutional problems related to Denmark's Accession to the European Communities. During this debate the Danish Ministry of Justice prepared a memorandum regarding these problems, which was submitted to Parliament in the summer of 1972. The first part of this memorandum contains a survey of Danish law on the implementation of treaties.

In this survey reference is made to recent Danish legal literature, where it is maintained that the law-enforcing

authorities, when in doubt about the interpretation of a legal provision, should prefer the interpretation that will best comply with existing treaty obligations. This is known as the rule of interpretation.

In these writings it is further maintained that in the absence of any special indications to the contrary a conflict between a treaty provision that has previously been observed in Denmark, and a provision in legislation enacted later, should be solved by applying the new provision in a manner that will respect the treaty provision, even if the tenor of the new provision is clearly at variance with the treaty. This is known as the rule of presumption: The court should "presume" that it has not been the intention of Parliament to pass legislation contrary to Denmark's international obligations. These views are fully upheld in the memorandum from the Ministry of Justice, where the conclusion of the survey on this point reads as follows:-

> " ... In the Ministry's view, Danish law courts would in all probability prefer a more ad hoc application of a law to a literal interpretation if the latter would make the State of Denmark responsible under international law for an unintentional violation of a treaty."

This extensive formulation of the rule of interpretation was not only accepted by the Danish Government when evaluating the questions of constitutional law raised in regard to the Danish entry into the European Communities; it has also been relied upon by the Danish Government in other contexts, e.g. the bi-annual report submitted to the Committee on the Elimination of Racial Discrimination under Art. 9 of the international Convention on the Elimination of All Forms of Racial Discrimination.

In the present context one aspect of the widening of the rule of interpretation is particularly worth noting, i.e.

its consequences for the exercise of discretionary powers by administrative authorities. On this point the memorandum from the Ministry of Justice states that administrative authorities should exercise discretionary powers in such a way that the administrative acts - be it decisions or general regulations - conform to validly contracted international obligations. This should be regarded as a legal obligation, enforceable by judicial review under Art. 63 of the Danish Constitution.

Part II.

re Article 1. No comments.

re Article 2. The Constitution, of 1953, contains no provisions dealing specifically with equality of men and women, but it embodies the principle of equal treatment of men and women. In public administration, the principle of equality, including equal treatment of men and women, is also applied as a fundamental rule.

re (a) - (c). As mentioned in the introduction, special provisions relating to equality have been laid down by law in, respectively, the Equal Pay Act of 1976 and the Equal Opportunities Act of 1978.

Under the Equal Pay Act men and women performing the same work at the same workplace for the same employer are entitled to equal pay. Employees cannot waive their right to equal pay by agreement with the employer. Employees who are not paid at the same rate as colleagues performing the same work are entitled to claim the difference.

In the case of employees covered by collective agreements claims for equal pay are settled by industrial tribunals, whereas claims of employees who are not covered by collective agreements are settled by law courts.

Employees who are dismissed for claiming equal pay are entitled to compensation from the employer equal to six months' pay. In the calculation of compensation account is taken of the employee's length of service and other relevant facts.

The Equal Opportunities Act provides that men and women shall have the same access to employment and education. An employer must not treat men and women differently at the same workplace because of their sex. This applies to recruitment, promotion, on-job training, courses, etc., transfers, general working conditions, and dismissal. For example, it is unlawful for an employer to dismiss a woman because she is pregnant or refuse to employ a man because of his sex.

With regard to dismissal on the ground of age, the Act requires the same age-limit to be applied to both men and women. However, the Act does not deal with the question of pension amounts or other superannuation matters.

Finally, the Act provides that men and women shall have the same opportunities to attend vocational courses and to work as self-employed persons. It is an essential precondition for enforcement of the provisions of the Equal Opportunities Act that advertisements for jobs contain no reference to sex, except where a person's sex is a genuine occupational qualification, such as acting.

The Act does not permit waiver of equal opportunity rights, and agreements violating the law are null and void. This applies also to agreements entered into prior to the entry into force of the Equal Opportunities Act.

If an employer infringes the law, the employee's remedy - as in the case of infringement of the Equal Pay Act - is either to notify the relevant trade union which may then refer the matter to an industrial tribunal, or to contact a lawyer who may bring the matter before a court. The employer can be fined for violating the law and may be ordered to pay compensation to the employee.

Exception from observing the provisions of the Act may be granted within narrow, specified limits, e.g. to enable special steps to be taken, such as schemes under which one sex is given preference over the other with a view to promoting equality.

re (d). On 10 November 1982, the Government decided to encourage efforts to increase the representation of women on public councils, boards and committees.

Upon the Government's recommendation, the Prime Minister's Office, the Equal Status Council and the relevant Ministries are seeking, in collaboration, to devise an agreement covering

- a description of goals to be attained, e.g. distribution according to sex of seats on existing or new ministerial committees, combined with a realistic time schedule for reaching that goal;

- a plan of methods by which the goal can be reached. Methods may vary; they may be applied separately or in combination. Examples: parallel nomination of one woman and one man for each seat on a committee (a method used e.g. in Sweden); a wider definition of requirements as to competence and terms of reference; training of a larger number of women staff in committee work; a quota system (applied e.g. in Norway); improvement of the opportunities of women for education and promotion in general;

- a duty to submit progress reports on a continual basis - e.g. in the form of brief annual reports to the Prime Minister's Office/the Equal Status Council.

Once an arrangement as outlined above has been agreed upon, it will be up to the individual ministries them-

selves to monitor and promote developments towards equality in such manner as they deem appropriate. An organization which deals specifically with questions of equality will, as a normal rule, be keenly aware that achievement of equality requires more than just formal control and allocation of quotas. The fact that the problem is dealt with at organizational level and in long term perspective may help bring about a stable and carefully planned development within the various ministries and agencies.

Parallel to the agreements with ministries, the Equal Status Council will support efforts of interest organizations to achieve growing representation of women members and public employees on public committees.

re (e). The Equal Status Council, as will be seen from the above description of its functions, is making active efforts in all spheres to prevent discrimination against women.

This applies not least to legislation, but also with regard to discrimination on the part of individuals, organizations and the business community.

re (f). The Marketing of Goods Act (Act No. 297 of 14 June 1947) contains no provisions dealing specifically with sex discrimination. But since the office of Consumer Affairs Ombudsman was established in 1975 the Ombudsman has received a considerable number of communications from various quarters concerning discriminatory advertisements. (It is incumbent on the Consumer Affairs Ombudsman to see - on his own initiative or on the basis of complaints or communications from others - that fair marketing practices are observed or that provisions laid down in the Marketing of Goods Act are not violated). In 1977, the Consumer Affairs Ombudsman set up a working group which, to assist

him in appraisals of that type of advertisements, was given the task to "define the concept of discriminatory advertising and, in the light thereof, to examine the problems involved in such advertising, seen especially from the legal aspect."

A report on discriminatory advertising submitted by the working group in January 1979 contains the following conclusion:

> "After reviewing the question whether discriminatory advertising is in conflict with existing law, we have come to the conclusion that, out of consideration for social interests in general and/or for women as a population group, action may be taken against discriminatory advertising where an advertisement contains
>
> (a) pictures or statements which reduce a woman to being merely a sex object and/or comparable to a commodity or object;
>
> (b) statements which explicitly allege or clearly intimate that the social, economic or cultural role of women is inferior to that of men, or that women are less adept, less intelligent or less suitable for jobs in which a person's sex is not a genuine physical determinant;
>
> (c) statements which in an indecent manner explicitly allege or clearly intimate that women, by virtue of their sex, have special personal characteristics or properties.
>
> On the other hand, there is no authority under the Marketing of Goods Act to take action against advertisements containing pictures or statements which reflect

the socalled traditional sex role pattern or a traditional concept of the female sex and thus contribute to an advertising pattern which conceivably could be in conflict with social attitudes and efforts to gain recognition of the equal worth and equal rights of men and women and equal opportunities for both sexes to fulfil themselves.

With regard to advertisements for books, magazines, films, and the like, with discriminatory content the authority for intervention under the Marketing of Goods Act must be considered to be further restricted, partly because of the need in such advertising to present a reasonably exhaustive description of products which it is lawful to sell, and partly because certain advertisements for films and pornography are likely to be accepted as permissible to a wider extent than was previously the case".

The terms of reference of the Consumer Council contains no special objects clause taking special account of the role of women in the consumer field. But the Council cannot, of course, ignore this question where specific problems come up for consideration.

Formally, present Danish legislation is phrased in neutral terms as far as sex is concerned. The Consumer Council is endeavouring to achieve de facto equality of men and women in consumer law. The effects of consumer law provisions vary with a person's social status, labour market position, etc. And since women generally are in a weaker position than men, discrimination against women still occurs in a number of fields in present-day Denmark.

In connection with its efforts to have instruction on consumer questions incorporated in school curricula, the

Council has attached importance to integration of such instruction into as many subjects as possible, and not only into subjects such as domestic science and needlework which traditionally are chosen predominantly by girls.

Over the years, the Consumer Council has worked for restriction of discriminatory advertising. The Consumer Council has also dealt with products and services used only by women, such as contraceptive pills, sanitary towels and tampons, examinations for cervical cancer and products primarily of concern to women, such as substitutions for mother's milk.

re (g). The Danish Penal Code contains no discriminatory provisions.

re Article 3. Women are guaranteed enjoyment of human rights, including the freedoms mentioned specifically in the Constitution, on the basis of full equality with men.

re Article 4.

1. Pursuant to section 11, subsection (2) of the Equal Opportunities Act, exemption from discrimination between men and women may be granted where conducive to promoting equal opportunities, especially with regard to vocational training and employment. After consultation with the Equal Status Council the Minister of Labour may grant exception from compliance with the requirements of the Act. In the 5½ years since the Act entered into force, the Equal Status Council has dealt with some 30 cases of this kind.

The cases in which exception may be granted fall into two main categories, viz. vocationally-targeted projects and

day courses provided by folk high schools. Among the projects were a few programmes for long-term unemployed women. They received practical training in various trades and obtained jobs. The experience of being able to cope with work traditionally performed by men encouraged many of the women to re-enter the labour market. They felt that between them they could manage even tasks which they had found difficult.

Some basic courses preparing women for technical and vocational training have also been very successful. They inspired many of the participants to undergo further training for jobs which hitherto have mainly attracted men.

The day courses provided for women by folk high schools were organized in recognition of the fact that some unemployed women need special training prior to undergoing vocational training or entering the labour market. Besides providing instruction in practical skills, combined with some theory, the courses aim at making the women more self-confident and giving them a better knowledge of society and its functions. The Equal Status Council is of the opinion that it will be an advantage for job-seeking women to have attended a course of this particular type.

2. Protection of maternity is provided for by law under the

Maternity Leave Act
(Act No. 63 of 21 February 1984)

the text of which is as follows:

1. (1). A female employee shall be entitled on the grounds of pregnancy and confinement to be absent from work from 4 weeks before the expected time of confinement and until 14 weeks after the confinement. After the confinement, the

parents shall be entitled to absence from work for a total of 24 weeks of which the father may take 10 weeks from the 14th week after the confinement. The right to absence from work may only be used by one parent at a time.

(2). Independently of the entitlement to absence from work pursuant to subsection (1) the father of the child shall be entitled to absence from work for up to two weeks after the confinement or the child's reception in the home.

(3). Furthermore, an employee shall be entitled to absence from work because of pregnancy, confinement and adoption during any periods where the employee is entitled to daily cash benefits under Part 12 of the Daily Cash Benefits Sickness or Confinement Act.

2. Any period for which an employee has been absent from work under the provisions of section 1 shall be included in the calculation of the employee's seniority of service. This provision shall not apply to pension rights.

3. An employer may not dismiss an employee for invoking the right to absence from work or for having been absent from work under the provisions of section 1 or otherwise on account of pregnancy, confinement or adoption.

4. (1). A female employee who avails herself of the right to be absent from work in pursuance of subsection (1) of section 1 shall within 8 weeks after confinement notify her employer of when she will resume work.

(2). A male employee who avails himself of the right in pursuance of subsection (2) of section 1 to be absent from work when the confinement takes place or the child is received in the home shall 4 weeks in advance notify his employer of the date from which he anticipates to be absent and for how long.

(3). A male employee who avails himself of the right to be absent from work in pursuance of subsection (1) of section 1 shall not later than 8 weeks after the confinement notify his employer of the date from which he will be absent from work and for how long.

(4). If the right to be absent from work after the 14th week from the confinement is shared between the parents in such manner that the female employee's absence is split up into several periods it shall be incumbent on her, when giving notice to the employer under section 1, to state the first and the last dates of subsequent periods of absence.

(5). In the event of absence under subsection (3) of section 1, it shall be incumbent on prospective adoptants, where the time and duration of the period of leave had not been fixed when the child was received in the home, to observe the time-limits prescribed in subsections (1)-(4) of this section.

(6). A female employee who avails herself of the right of absence pursuant to subsection (3) of section 1 on the ground that the child because of being born prematurely or underweight has to remain in hospital for some time after birth, shall notify the employer thereof within 2 weeks after the confinement. In that event the time-limits prescribed in sections 1, 3 and 4 shall be extended by the period of the child's hospitalization and notice given in pursuance of section 2 shall lapse and be replaced by a fresh time-limit of 2 weeks. Furthermore, the parents shall within 1 week after the child was received in the home notify their employers of the date of reception.

5. The provisions of this Act may not be set aside at the disadvantage of the employee.

6. (1). If an employer dismisses an employee in contravention of section 3 he shall be liable to pay compensation to the employee.

(2). In fixing the amount of compensation, which may not exceed 26 weeks' pay, regard shall be had to length of service and any other relevant circumstances.

7. (1). The provisions of this Act shall apply where confinement took place or the child was received in the home on or after 1 July 1984.

(2). The Act shall not, however, be fully operative until 1 July 1985, seeing that the "24 weeks" and "10 weeks" referred to in subsection (1) of section 1 shall be "20 weeks" and "6 weeks", respectively, during the period from 1 July 1984 to 1 July 1985.

re Article 5

re (a). An important element in the work of the Equal Status Council is to draw attention to all existing discriminatory patterns of conduct and to try to modify these patterns through elimination of prejudices. In this context the media play a major role because their entertainment programmes, articles, illustrations, and choice of news reflect virtually all aspects of the conduct of human beings and not least in men-women relationships. So far the media have failed to present a satisfactory picture of the progress which women have achieved over the past 20 years. The Equal Status Council is therefore making continuous efforts to rectify this lack, inter alia by publishing its own information material in the form of brochures, newsletters, etc.

Since 1981, 14 equality consultants have been attached to labour exchanges. Their work is coordinated by the Directorate of Labour.

The principal duties of the equality consultants are to

- ensure that all work of public labour exchanges is based on the principle of equal treatment of men and women. This means that the consultants shall provide information, guidance and instruction to labour exchange staff in matters of equality;

- develop methods of information and guidance aimed at changing traditional attitudes and concepts with regard to the qualifications and opportunities of men and women on the labour market. This work shall be directed towards management and labour as well as teachers, advisers and others having influence on young people's choice of education and training;

- assist in developing experiments and building up experience to show the performance of men and women, respectively, in untraditional types of education/ training and occupation;

- assist in developing and assessing experiments in fields of education/training and occupation based on the principle of equal treatment of men and women.

In 1983, the principal objectives pursued were to

- change young women's attitude to choice of education/ training and, by means of courses, preparing them for admission to polytechnics and, through dissemination of information to teachers and parents as well as to management and labour on the future opportunities of women, to change the views of these groups on female labour;

- change the views of pupils of primary and lower secondary schools on their own education and employment op-

portunities by alerting them to the large variety and the less traditional forms of education/training available;

- enhance the knowledge of labour exchange staff of women's education/training and employment opportunities. This has been done in the form of study groups, written information etc.

These efforts in promotion of equality have made women more interested in education and training in untraditional fields, and engendered among educational institutions, consultant groups and labour exchange staff a growing recognition of the need for active efforts. Moreover, management and labour have become more aware that guidance and training should be organized to meet women's wishes and background. Long-term efforts such as those made by labour exchanges, with the equality consultants as prime initiators, should help to ensure that women are trained for the labour market of the future - efforts which require a decisive breakaway from the existing patterns of men's and women's choice of education and training.

In addition to the work described above, the equality consultants attached to labour exchanges, and the coordinators in the Directorate of Labour engage in comprehensive information work and lecturing activities. This work, which helps to lay a foundation for modification in the long term of the traditional ideas of the roles of men and women in society, is based on concrete labour exchange experience and proposals for active efforts from all institutions and authorities involved.

Family education is not included as a specific subject in the context of the sex education provided at all levels

in Danish schools. But several evening schools provide courses on prenatal care and parents' roles which both men and women are encouraged to attend.

In primary and lower secondary school education, domestic science and needlework are obligatory subjects for both girls and boys in order to make it natural that the responsibility for housekeeping and upbringing of children should be more evenly shared between the sexes.

re Article 6

Under the Penal Code it is a punishable offence to tempt any person into prostitution and to live on the earnings of prostitution. Recent years have seen no instances of exploitation of prostitution of women of such a nature and to such an extent that need has arisen for taking further measures to suppress this form of exploitation.

re Article 7

(a) Women enjoy the same political rights as men. Danish women have had the right to vote and been eligible for election in local government elections since 1908 and in parliamentary elections and referenda since 1915.

re (b). In the capacity of members of government and parliament, women participate in the formulation of government policy - but not yet to a satisfactory extent; see the comments re Article 2 (d).

In Danish defence, the provisions of sections 2-6 of the Equal Opportunities Act are, until further notice, derogated from to some extent because female military personnel is not employed in positions within the Armed Services and the Home Guard which could involve direct participation in military operations.

It should be noted, however, that in 1981, the Navy introduced an experimental arrangement for service afloat of female personnel. In 1984, experimental arrangements were made for incorporation of female personnel in combat or combat-support units of the Army and the Air Force.

Women are not subject to conscription (section 81 of the Constitution and the National Military Service Act (No. 213) of 30 May 1980).

re (c). Freedom of association is guaranteed under section 78 of the Constitution which, like all other constitutional provisions, applies equally to men and women. Women participate to a very large extent in the activities of non-governmental organizations.

re Article 8. Formally, women have the opportunity, on equal terms with men, to represent the Government at the international level, and women are, in fact, serving in that capacity, although on a minor scale. Women are not, however, assigned for service in military contingents by which Denmark contributes to United Nations peacekeeping operations. Nor are women represented on United Nations military observer corps. For both types of United Nations missions, direct involvement in military operations cannot be ruled out (see comments re Article 7 (b).).

re Article 9

re 1: Under the Danish Nationality Act (Act No. 155) of 6 April 1978 and Ministry of the Interior Circular of 1 June 1983 on naturalization, women have equal rights with men to acquire, change or retain their nationality, except that women married to Danish nationals are favoured with respect to naturalization. The relevant provision will, however, cease to be applicable at the end of the parliamentary session 1985/86.

Marriage to a foreigner or a husband's change of nationality during marriage does not automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

re 2: Under the abovementioned Act women have equal rights with men as regards the nationality of their children, always provided that children born out of wedlock acquire Danish nationality at birth only if the mother is Danish. This inequality is accounted for by the fact that the custody of such children is vested in the mother.

re Article 10

re (a) - (h):

Formally, boys and girls, men and women have for several generations enjoyed equal rights to and equal opportunities for education, training and vocational guidance; and women have access, on equal terms with men, to grants and loans from the National Education Fund. But marked discrepancies in the levels of education of men and women remain in evidence.

The past 15-20 years have seen a general extension for both sexes of the period of school attendance. This is accounted for partly by the extension, as from 1972, of the period of compulsory education from 7 to 9 years, and partly by the higher level of school education required for admission to post-school education and training.

In spite of the extension of the period of compulsory education, there are still discrepancies with regard to the period for which boys and girls attend school and the qualifications they have attained when leaving school. Girls attend school longer than boys. They outnumber boys

in leaving school after passing an examination. And they account for over 50 per cent of those leaving school with a certificate qualifying for admission to post-school education and training.

Girls leave school with other qualifications than boys because they preferably choose subjects and streams within the traditional pattern of sex roles. The foundation of choice of occupation is laid as early as during school attendance.

The level of school education plays an essential role as to what type of further education male and female school-leavers select. The past 15-20 years have seen a steep growth in enrolment by both men and women for post-school education and training.

As for post-school education, women preferably choose medium-term courses, which is surprising because they generally have a better school background than men.

Women's choice of post-school education or training falls within very narrow limits. Many of the short-term courses provided conform closely to labour market requirements and to sex-determined traditions and distinctions between men's and women's jobs. These factors have marked effects on the pattern of enrolment for post-school education and training. Important to note in this context is that the drop-out rate is higher for women than for men.

The residual group, i.e. the group of men and women who receive no post-school education or training, appears to be shrinking. However, women account for a larger proportion than men in this group in spite of their better school background, partly due to higher drop-out rates for women.

Numerous factors influence the dissimilar choices of men and women with regard to occupation and type of job. Sex-linked traditions which influence the expectations of boys and girls as to their future roles in society are being perpetuated by the young persons themselves and their parents, at school, at work, and among those providing school and vocational guidance.

The school plays an essential role in the development of children's notions of the different roles and tasks of men and women in society. Here the influence comes not only from teachers and school mates but in at least equally measure from the content of teaching and the means and methods used in teaching.

The Equal Status Council plays an essential role in the development of sex equality in the educational system. The Council finds it of paramount importance that instruction in sex role problems should start at the earliest possible stage of education and that this process of learning should continue and be integrated into teaching throughout school life.

Girls and women have equal opportunities in technical and vocational education and training, but to a wide extent they do not take advantage of this. The Equal Status Council sees it as one of its most important tasks to make women avail themselves of these opportunities, and the Council promotes this point of view whenever and wherever possible.

In 1981, 14 equality consultants were appointed to serve in each of the 14 regional employment services under the Directorate of Labour which is an agency under the Ministry of Labour. The equality consultants were appointed to improve women's employment opportunities.

A precondition for establishing activities and programmes to change the pattern of the sex-specific choice of education and employment will be to eliminate the prejudice against girls' suitability for certain disciplines and to bring about closer cooperation among the vocational training school counsellors, the equality consultants, and the primary and lower secondary school counsellors, in an attempt to encourage girls to choose an untraditional education.

Another machinery dealing with the abovementioned remaining sex-linked discrepancies in the Danish educational system is the Committee on Sex Roles and Education. The Committee was set up by the Ministry of Education in consultation with the Equal Status Council in 1976, and was given the following terms of reference:

It is the task of the Committee, in the light of its own and other investigations to review the problems of equality and sex roles, and on the basis thereof to take the initiative for further enquiry and propose measures to promote equality in the educational system.

With effect from January 1984 the Committee's functions as adviser to the Ministry and the educational councils were taken over by the Equal Status Council, partly in co-operation with the Division of the Ministry of Education for Special Measures to Combat Unemployment.

Special action to further education and employment of women

As stated above, Danish women generally take less advantage than men of their opportunities in areas of education and employment. However, under the Equal Opportunities Act, affirmative action may now be taken to correct that imbalance.

In many sectors of the educational system affirmative action programmes have been introduced on an experimental basis, and a number of measures have been initiated to break down the traditional sex-role patterns in education and training:

- A Way to Equality - Affirmative Action. Two reports: Facts for Further Discussion and Action to be taken; Documentation of Developments in the 1970s. These reports, published by the Committee on Sex Roles and Education, are designed - through information and proposals for affirmative action - to point to measures which would help promote equality in the educational system and on the labour market and, in turn, access of women to non-traditional areas of employment and participation of women in the decision-making process. The reports have created better understanding of the need for affirmative action and a more open public debate on this question.

- The Committee on Sex Roles and Education and primary and lower secondary school counsellors have published a strip cartoon Where Do You Go From Here? The strip serves as a basis for discussion with special emphasis on the particular problems of girls who traditionally choose careers with limited perspectives and high unemployment rates. The aim is to promote career counselling that encourages young women to choose non-traditional educations and jobs and thus to prevent unemployment among young women. This approach has resulted in a more open discussion in schools and among pupils, teachers, counsellors and parents and made them more aware of the particular problems of girls choosing traditional careers.

- The Committee on Sex Roles and Education, in collaboration with the counsellors of upper secondary schools,

have published a booklet entitled Maths ... for Girls, too! The booklet provides professional guidance for female students in the mathematics lines of upper secondary schools to encourage them to pursue university studies of mathematics that would qualify them for access to non-traditional areas of employment.

- As an experiment, lower secondary school counsellors and vocational school counsellors have jointly organized classes for girls only in the framework of the introductory courses provided by the vocational centres for pupils in forms 8-10. The aim of the experiment is - through informing the girls of opportunities in technical sciences and crafts and enabling them to test and discover their ability to use tools and handle jobs which are normally considered to be reserved for boys - to increase the percentage of female attendance of courses qualifying for jobs as technicians or artisans and thus promote the access of women to untraditional areas of occupation and employment.

- As an experiment, technical schools have reserved 5 per cent of their training capacity for girls with the aim of increasing the percentage of females in basic vocational education for jobs in iron and metal industries and thus promote the access of women to non-traditional areas of employment.

- Local authorities have introduced vocational guidance and motivation courses for young unemployed women faced with particular problems in choosing education or job. The aim of these activities is - through strengthening the self-confidence of the participants and expanding their sphere of interests to cover also traditionally male-dominated areas - to combat unemployment among young women through career counselling and

training also in non-traditional pursuits so as to promote equal opportunities in the educational system and on the labour market.

- In an effort to combat unemployment, vocational training centres have established introductory courses for young unemployed women to motivate and enable them to enter non-traditional training areas and jobs.

- Local authorities and adult education associations provide teaching in general subjects such as Danish, arithmetic and social science at basic courses in day high schools for long-term unemployed women with a weak educational background, and career counselling and training in practical craft skills for young women - with the dual aim of improving the opportunities of women in education and working life and combating unemployment among women.

- In the framework of day high school education, local authorities and adult education associations with state subsidies organize introductory courses for migrant women on subjects such as arithmetic and social science i.e. economics, hygiene, nutrition, Danish taught as a foreign language. In addition, instruction is given in practical craft skills. The aim of this project is to combat unemployment among young migrant women.

Until 1972, enrolment in sea-training schools and admission to training vessels were reserved for young men. Since 1984, women have been eligible for enrolment in sea training schools on equal terms with men.

Since 1981, women have been admitted for training in the training vessel GEORG STAGE and, since July 1983, in the State-run training ship DANMARK. Selection of trainees is based solely on qualifications.

Enrolment in schools of navigation is open to all applicants who meet the statutory requirements as to competence, but few women apply for admission.

The number of places available in sea training schools and training vessels is limited. There are fairly many women applicants, but their number is considerably lower than for men. The percentage of women admitted corresponds roughly to the percentage of women applicants.

With the restrictions following from the comments re Article 7, attendance of schools and courses for military personnel is open to both men and women. As a case in point can be mentioned that some female officers serving in the defence forces are military academy graduates.

Since 1973, free and discreet advice on family planning has been provided by general practitioners and special county clinics. The first time a woman visits a general practitioner after having given birth, the general practitioner shall inform her that such advice is available. All schools provide sex education. All children are entitled to eight health examinations from birth to the age of 6. Denmark has a school health service under which a comprehensive examination is made at the time of entry. Furthermore, the school doctor examines children who may have a special need. Both at the examination of children below school age and at the examination made by the school doctor the parents are requested to attend so that they get an opportunity to receive advice on health matters.

The Ministry of the Interior grants an annual amount for activities in connection with sex education.

re Article 11

1(a) - (d)

Equality of men and women in the field of employment was introduced in Denmark on 1 July 1978 by the Equal Opportunities Act (Act No. 161) of 12 April 1978.

Under the Act, which is based on an EC Directive of 1975, it is unlawful for an employer to discriminate between men and women in the same workplace. This applies to employment, promotion, transfer, access to vocational guidance, vocational training and retraining, all other conditions of service, and dismissal. It is thus unlawful for an employer to dismiss a woman on the ground of pregnancy or refuse to employ a man on the ground of his sex.

In this connection it should be noted that parliament has before it a Bill under which applicability of the principle of equal treatment shall no longer be restricted to employment at the same workplace.

The Act does not apply where an obligation to non-discrimination comparable to that prescribed by law has been provided for by agreement, which means that the Act is subsidiary.

As a precondition for de facto equality the Act provides that all advertising for jobs and vocational training shall be sex-neutral.

Violations of the Act may be brought before a court. Violations of agreements on equality shall be referred to labour tribunals.

In addition to being fined for violating the Act, an employer may be sentenced to pay compensation to the employee.

The Act provides that exception from equality may be granted where a person's sex is a genuine occupational qualification. Under this provision time-limited exception has been granted for certain types of service in Danish defence. Time-limited exception has likewise been granted to a large Danish commercial firm with subsidiaries abroad on the condition that the firm employs a small number of women during the period covered by the exception.

The Act furthermore allows for granting exception, each case being treated on its merits, with a view to promoting equal oppportunities for men and women, notably by eliminating de facto inequalities which affect the right to employment, vocational training, etc. This provision has been applied, inter alia, with regard to courses for unemployed women and to give preferential access for young women to vocational training in fields which traditionally have been dominated by men. Finally, general exception has been granted to launch special job creating projects for women or to give women preferential access to some projects designed to remedy the proportionally higher rate of unemployment among women.

The Equal Pay Act (Act No. 32) of 4 February 1976 is based on an EC Directive of 1975.

The Equal Pay Act provides that any employer who employs men and women at the same workplace shall pay them at the same rate for the same work unless he has not already undertaken an obligation to that effect under a collective agreement. This provision applies to employers in both the private and the public sector, and the term "same work" covers both identical work functions and work of the same value.

An employee who, in conflict with the law, is paid less than other employees, has a claim to being paid the difference. If an employee is dismissed for claiming equal pay the employer shall pay compensation to the employee in an amount not exceeding 26 weeks' pay.

The Equal Pay Act provides that where the right to equal pay is accorded by agreement, claims for equal pay shall be dealt with in the manner customary for claims under agreements, i.e. by industrial courts. The Act is thus subsidiary to agreements providing for equal pay.

re (e). Since Denmark ratified the Convention, legislation relating to pensions has been amended on some points, inter alia to ensure equality of men and women.

A new National Pensions Act (Act No. 436) of 9 September 1983, and a new Invalidity and Early Retirement Pensions Act (Act No. 437) of 9 September 1983, entered into force on 1 January 1984. These Acts abolished the reverse discrimination against women in the form of pensions for which only widows in certain categories and non-married women were eligible. However, both Acts still contain a provision which is especially favourable for women, viz. that Danish nationality is a requirement for the right to pension does not apply to women who are or were most recently married to Danish nationals. (A Bill to abolish this provision has been tabled on the motivation that all rules relating to sex discrimination, including rules in favour of women, should be abolished).

The right of persons in active employment to social benefits in case of sickness is accorded under the Daily Benefits (Sickness and Confinement) Act (Act No. 425) of 5 September 1973. The Act makes no distinction between men and women. Daily benefits are paid in compensation for

loss of income in case of incapacity for work due to sickness or confinement. Employees who at the time of onset of disease had been in the employ of an employer for at least 40 hours within the last preceding 4 weeks is entitled to be paid daily benefits from the employer as from the second full day of absence from work. Daily benefits are then paid by the employer for up to 13 weeks reckoned from the first full day of absence. Thereafter the obligation to pay benefits lies with the relevant local government.

Daily benefits represent 90 per cent of the income, always provided that these benefits may not exceed a maximum amount fixed for six months at a time.

With regard to the right to other social benefits, inter alia in the case of unemployment, early retirement and sickness not covered by daily benefits, it should be noted that the Social Assistance Act (Act No. 356) of 19 July 1983 makes no distinction between women and men. Assistance under the Social Assistance Act is thus provided regardless of the applicant's sex. Women who are not Danish nationals but married to Danish nationals are, however, (pursuant to section 3) accorded easier access to permanent assistance than men who are not Danish nationals.

Unemployment benefits and early retirement pensions are paid at earnings-related rates. In some cases women are, however, in a poorer financial position than men because many typical women's jobs are low-paid and because part-time jobs are predominantly held by women.

The Holiday with Pay Act (Act No. 357) of 2 July 1981 covers all employees, regardless of sex.

re (f). Findings of recent research work show that external factors in the working environment may affect the reproductive powers of men and women and the health and viability of foetuses and children. Part of the research work consisted in observations of infertility, reduced fertility, miscarriages, premature birth, malformations, congenital diseases and early occurrence of disease in children of parents having been exposed to the action of environmental factors. Another part of the research work consisted of experiments with animals and inferior organisms. The findings led, with some reservations, to the conclusion that there is a hazard of occurrence in man of harmful effects like those seen in the experiments. The Danish Board of Health has therefore compiled a register of malformations as an instrument for early detection of the action of such factors inside and outside the working environment. Some of the mechanisms responsible for the detrimental effects observed remain unidentified. A complete list of harmful effects can therefore not be compiled. However, cases in point are infectious diseases (e.g. rabbit fever) (cytomegalovirus infection), effects of ionizing radiation, e.g. x-rays, exposure to high temperatures and certain chemical substances, e.g. styrene and lead. There is reason to fear that the action of certain factors produce genetic impairment that will have severe repercussions on future generations.

To ensure that these problems can be tackled with the greatest possible expertise and within a uniform frame of references, the National Food Institute has recently set up a working group whose membership is composed of representatives of various research institutions and agencies, among them the Working Environment Institute of the Labour Inspection Service.

By amendment of section 33 (4) of the Daily Benefits (Sickness and Confinement) Act (Social Security Board

Circular of 25 September 1980) women who during pregnancy are exposed to harmful effects in the types of work they perform, have obtained a right to daily benefits over a more extensive period. The Act is administered by local social security boards whose decisions are often taken in the light of information provided by the Labour Inspection Service concerning the Woman's exposure to harmful effects and an assessment of the risk of an abnormal outcome of pregnancy.

In the fixing of hygienic threshold values for substances and materials used at workplaces, very little account can be taken of potential effects on reproductive power, since knowledge thereof is greatly limited.

re 2. (a) and (b)

See comments re Article 4.2.

re 2 (c)

A number of supporting social services for parents have been introduced by law. Under the Child Benefits and other Family Allowances Act, benefits for children are paid to parents and single supporters. Parents whose incomes are below specified limits are paid the standard allowance, at present Dkr. 573 per quarter per child under age 16. Single supporters are paid - also within specified income brackets - an increased allowance in lieu of the standard allowance, at present Dkr. 859 per quarter per child, plus one extra allowance of Dkr. 657 per quarter. In addition, a special allowance of Dkr. 1,620 per quarter is payable in certain circumstances. Young people aged 16 and 17 are paid a youth allowance. The maximum amount payable under this scheme is, for 1983, Dkr. 9,000 per annum, and is related to household earnings and the young person's own earnings.

As for child-care facilities, the Social Assistance Act provides that local government boards shall see that the necessary number of places is available in day institutions for children and young people, including socio-educational recreational facilities. In pursuance of this provision day institutions have been established in all local government districts, either by the local authorities themselves or by self-governing institutions under contract with the local authorities. Expansion has been halted in recent years because of the economic recession.

re 2. (d)

Reference is made to the comments re Article 11.1(f), more precisely the comments re the advisory functions of the Labour Inspection Service under section 33(4) of the Daily Benefits Act. Supplementarily, it should be noted that so far the provision has mainly been applied with respect to women exposed to action of chemical substances, including organic solvents.

re 3

Danish protective legislation relating to matters covered by Article 11 applies to all employees irrespective of sex.

As regards the need for periodic revision of protective legislation it should be mentioned that the Labour Inspection Service has set up a working group to describe accessible documentation on substances and materials having harmful effects on the function of reproduction.

re Article 12

re 1

Men and women have equal access to health care services, including those related to family planning.

re 2

Services in connection with pregnancy (preventive examinations) confinement (in hospitals, clinics or in the home) are free. And free post-natal services are provided by midwives and infant health nurses. During a period before and after confinement the mother is entitled to maternity leave and daily cash benefits.

re Article 13

re (a)

The Child Benefit and other Family Allowances Act (Act No. 609) of 29 November 1978 makes no distinction between men and women except laying down explicitly that child benefit shall, as a principal rule, be paid to the mother.

It should be added that where under family law a parent who does not live together with the child is liable to pay maintenance. The standard amount may be paid in advance out of public funds. Men pay a higher standard amount than women (which means that mothers who do not live together with their children pay less than the fathers do).

re (b)

Under the Tax Equality of Spouses Act (Act No. 227) of 26 May 1982, men and women are treated on equal terms with respect to taxation.

re (c)

See comments re Article 11.1.(e).

re Article 15

In Danish law, women and men have the same legal capacity with respect to administration of property.

re Article 16

Equality of spouses is a fundamental principle in Danish legislation relating to formation and dissolution of marriage. It is expressly provided that husband and wife shall support each other and jointly safeguard the interests of the family.

The marrying age is the same for men and women, and men and women generally have the same rights and duties during marriage and at dissolution of marriage.

In relation to the children, spouses have the same rights and responsibilities, also with respect to custody and guardianship of their joint children. If the parents are not married, custody and guardianship are vested solely in the mother. With regard to support, succession and other rights and duties parents, regardless of their marital status, have the same rights and duties in relation to the children.

With the object of providing equality of men and women and between legitimate and illegitimate children with respect to the use of family names a new Names Act (Act No. 193) of 29 April 1981 was passed in 1981.

Under previous legislation the husband was taken to play the principal role in marriage. On marriage, the woman acquired the husband's family name unless she declared that she wanted to retain her maiden name. Children of the marriage acquired the father's family name. Under the new Act husband and wife retain their own names on marriage unless one of them, with the consent of the other spouse declares that he/she wants to bear the other spouse's name. Children acquire the parents' surname at birth if the spouses use the same surname. If they do not, they are free to choose whether the child shall bear the father's or the mother's name. If the parents make no such choice within 6 months after the child's birth, the child acquired the mother's surname regardless of whether the parents are married or not.

Both men and women have the right to be sterilized after attaining the age of 25.

UNITED
NATIONS

CEDAW

Convention on the Elimination of all Forms of Discrimination Against Women

Distr.
GENERAL

CEDAW/C/5/Add.23
29 August 1984

ENGLISH
ORIGINAL: SPANISH

Committee on the Elimination of Discrimination
Against Women (CEDAW)

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of States Parties

ECUADOR

V.84 89600

The Government of Ecuador, in compliance with the obligation entered into under article 18 1.(a) of the Convention on the Elimination of All Forms of Discrimination Against Women, to which it is a party by reason of its accession on 17 June 1980, of approval of accession by the National Congress on 7 October of the same year, and of presidential ratification on 19 October 1981, submits the following report to the Committee on the Elimination of Discrimination Against Women:

PART I

Articles 1 to 6 of the Convention:

1. According to advance sampling results of the 1982 census, furnished by the National Institute of Statistics and Censuses (INEC), Ecuador has (March 1984) a total population of 8,823,500 persons, of whom 4,464,600 live in urban areas and 4,358,900 in rural areas. Of this total population, 49.9 per cent are men and 50.1 per cent women, and 51.3 per cent dwell in urban areas and 48.8 per cent in the country.

2. The economically active (working) population of the country numbers 2,616,400 persons, of whom 1,372,600 are established in urban areas and 1,243,800 in rural areas. Of the total working population of Ecuador, women account for 545,200 (20.8 per cent), of whom 390,700 live in urban areas and 154,500 in rural areas, representing 28.5 per cent and 12.4 per cent of the total respectively.

3. Article 44 of the Political Constitution of the Ecuadorian State, approved by referendum on 15 January 1978, guarantees to all persons, whether men or women, who are subject to the jurisdiction of the State the free and effective exercise and enjoyment of all the civil, political, economic, social and cultural rights enunciated in the declarations, treaties, agreements and other international instruments currently in force.

4. In the light of the above-mentioned constitutional principle, the provisions of the Convention on Elimination of All Forms of Discrimination Against Women form part of the national legal system, and any violation of the rights enshrined therein entitles the possible victims to bring the appropriate action in Ecuadorian courts.

5. Article 19, section 4 of the Fundamental Charter lays down the principle of equality before the law and in so doing "prohibits any discrimination for reasons of race, colour, sex, language, religion, parentage, political or any other opinions, social origin, economic status or birth". The third paragraph of the same section refers expressly to the status of women:

> "Women, whatever their civil status, enjoy equal rights and opportunities with men in all areas of public, private and family life, especially in the civil, political, economic, social and cultural areas."

6. This constitutional provision, as will be seen below, is supported by a highly comprehensive legal framework, which ensures that the principles of the Fundamental Charter are genuinely applied and go beyond the level of mere statement.

7. The National Development Plan, within the Programme of Popular Support for the five-year period 1980-1984, includes a sub-programme entitled "Women and young people", the aims of which are:

"To secure conscious, critical and creative participation by young people and women in the life of the nation and to involve them in the country's social, economic and political development.

"To promote the physical, intellectual, moral and vocational development of the young people and women of Ecuador in such a way as to strengthen their participation in the family, society and the State.

"To co-ordinate the use of resources from the various sectors of production and from the government authorities to solve the problems affecting young people and women.

"To set up a unit responsible for executing the programme for young people and women and for co-ordinating the activities and resources that other institutions may devote to helping these groups of the population.

"To create new educational and employment opportunities which will benefit young people and women in particular and society in general, through self-managing forms of production.

"To secure active participation by young people and women as volunteers in popular promotion programmes to benefit the needy sectors of the population.

"To organize training courses at the basic, intermediate and higher levels to train leaders to promote popular organization and other activities connected with improving the status of young people and women."

8. With the aim of implementing the above sub-programme, the National Women's Office was established on 20 May 1980, and gave grounds for high hopes throughout the country since, for the first time in the history of Ecuador, women's affairs were to be handled on a specific and official basis; under the authority of the Ministry of Social Welfare, the Women's Office would plan, direct, co-ordinate and evaluate action to improve the status of women, to secure their vocational, technical and professional training, to propose appropriate measures and machinery, and gradually to extend its activities to all the socio-economic, cultural and political spheres of relevance to its work.

9. In order to attain its principal goal of promoting the status of the Ecuadorian woman so as to secure her integration and participation in the socio-political, cultural and economic development of the country, and also to improve her conditions of life, the National Women's Office is engaged in various activities throughout Ecuadorian territory:

- Planning, directing, co-ordinating, supervising and evaluating the work of the various public and semi-public bodies implementing programmes aimed at achieving the above mentioned objective;

- Research into and analysis of the status of women in various areas, in order to evolve policies designed to bring about changes in their present situation;

- Promoting the technical and professional training of women in order to ensure their access to the social and economic development of the country;

- Supervising observance of the relevant legislation and checking that no discriminatory action against women occurs;

- Encouraging a change in the traditional image of women by recourse to the mass media; and

- Proposing measures designed to secure greater participation by women in the political life of the country, through their tenure of executive and decision-making positions.

10. Ecuadorian criminal law recognizes the offences of corruption of minors and procuring. Book II, "Specific Offences", includes a title VIII referring to sexual crimes, the third chapter of which deals in fact with "corruption of minors, procurers, and public indecency".

11. Among the articles in this chapter, mention should be made of the following:

"Article 521. Any person committing acts of indecency by habitually promoting or facilitating the debauchery or corruption of minors of either sex shall be punished by imprisonment for from two to five years if the minors in question are aged 14 years or more, and by confinement for from three to six years if the minors have not reached that age.

"Article 522. The offence described in the preceding article shall be punished by confinement for from four to eight years if the minor has not reached the age of 12 years.

"Article 523. The minimum of the terms of imprisonment and confinement referred to in the preceding articles shall be increased by two years:

"If the offenders are ascendants, brothers or sisters, or spouse of the victim of the prostitution or corruption, or if the offender is a man living in marital relation with the female prostituted by him. If the offenders are parents of the victim, they shall furthermore be deprived of parental authority;

"If the offenders are the legal guardians of the victim;

"If the offenders are the teachers or servants of the victim, or servants of the persons mentioned above; and

"If they are public officials or ministers of religion.

"Article 524. In the cases envisaged in this chapter, the offenders will be also condemned to a fine of from 100 to 500 sucres.

"Article 525. Any person taking women into his house for the purpose of committing rape upon them shall be punished with imprisonment for from three to five years, unless he be director of a licensed brothel operating in accordance with the regulations issued by the competent authorities for this type of establishment.

"Article 526. Persons habitually engaged in procuring, except in the case mentioned in the preceding article, shall be punished with imprisonment for from two to five years and then placed on special probation for a period of from two to five years.

"Procuring shall be regarded as habitual when it has been proved to have been committed two or more times, on different occasions and against different persons.

"If the offence has been committed by the father or mother of a victim of prostitution, the offender shall furthermore be deprived of the rights and prerogatives granted under the Civil Code in respect of the person and property of the child."

12. By virtue of its signature ad referendum on 21 March 1950 of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, and of its deposit of the relevant instrument of accession on 3 April 1979, Ecuador is a Party to this Convention aimed at eliminating such degrading practices.

13. As members of the Committee will observe from the above-quoted legal provisions, there is in Ecuador not only no discrimination against women as regards white slaving and the exploitation of female prostitution, but furthermore the status of women is entirely equal with that of men, it having been borne in mind that, particularly when they are minors, both the male and the female are equally defenceless victims of this type of crime.

PART II

Article 7 of the Convention.

14. In title II, section VI of its First Part - referring to political rights - the Political Constitution enunciates the right of all Ecuadorians, irrespective of sex, to "vote and to be elected, to submit draft legislation to the National Congress, to be consulted in the cases laid down in the Constitution, to scrutinize the acts of the public authorities, and to fill public offices and functions in accordance with the conditions laid down by law" (article 32).

15. Article 33 of the same section provides that "suffrage shall be universal, equal, direct and secret, compulsory for persons able to read and write and optional for illiterate persons", and continues by stating that the only condition for the exercise of this fundamental right is that an Ecuadorian citizen should have reached the age of 18 years and should be in enjoyment of his or her political rights. This provision accords with article 12 of the Political Charter which designates the age of majority - reached according to the provisions of the Ecuadorian Civil Code at the age of 18 - as the only condition for the enjoyment and exercise of the rights of citizenship.

16. The above constitutional principle is stated in article 5 of the Electoral Law, as follows:

> "Any Ecuadorian, man or woman, who has reached the age of 18 years, who is in enjoyment of the rights of citizenship and who fulfils the conditions laid down in this law may be a voter."

17. Similarly, article 36 of the Constitution lays down the unrestricted and equal right of all Ecuadorians "to found political parties and participate in them ...". It is highly significant that one of the 17 parties legally operating in Ecuador is led by a woman.

18. When the Supreme Electoral Commission - a State body responsible for directing, supervising and guaranteeing the conduct of elections - was asked for information on the percentage female participation in elections during recent years, it furnished two statistical tables relating to the presidential elections in July 1978 and to the partial administrative elections held on 7 December 1980, the results being broken down by province (annex 1).

19. From these tables it emerges clearly that the female participation exceeded the male at the elections of 16 July 1978 held in Quito and that at the elections of 7 December 1980 voting by female illiterates, was greatly superior to that of

male illiterates, at national level. More recent data on this subject, particularly data referring to the two electoral rounds for nomination of the President of the Republic conducted on 29 January and 6 May of this year, will be communicated to the Committee as soon as available.

20. Although it is a fact that there is no legal text providing for intervention by women in the formulation of Government policies, it is no less a fact that, in practice, women have participated in the making of these policies through being a Minister or Under-Secretary of State or a high-ranking civil servant. The National Development Council, which is responsible for laying down general Government economic and social policies and for preparing the plans for their implementation, includes among its collaborators a large number of highly-qualified professional women.

21. The participation of women in non-governmental organizations and associations has substantially increased during recent years thanks to the positive action of groups of women interested, on the border of the public sector, in the problems of women in Ecuador; such is the case of the National Union of Ecuadorian Women (UNME), a voluntary organization of women which acquired legal personality in 1963 and has been carrying out its work since then, having its headquarters in Quito and branches thoughout the country. Among its activities, special mention may be made of those relating to:

(a) Community civic action, which includes the holding of civic meetings throughout the Republic, conventions, congresses and civic seminars, together with the preparation of handbooks on community affairs and the provision of electoral information services;

(b) Production workshops, which train female labour, market products through community shops, and issue publications dealing with matters of interest to women;

(c) Medical groups, located in five cities and in suburban and rural districts, which work on prevention of rheumatic fever and other diseases, and offer dietary education; and

(d) "Houses of the Citizeness" (Casas de la Ciudadana), located in various cities and in rural areas of the country, which, apart from performing civic educational work and accommodating production workshops, community shops and medical units for family health care, serve as teaching premises for seminars and conferences for rural women, and as shelters for children and adolescents.

22. Special mention should also be made of the energetic activities of the Ecuadorian Committee for Co-operation with the Inter-American Commission of Women, a private body which collaborates with this particular agency of the Organization of American States. Prominent among the activities of the Committee are:

(a) Activities to support accession to the Convention and to promote new legislation: in 1981 démarches were carried out in the National Congress with a view to the ratification by Ecuador of the Convention to which this report relates; similarly, bills (draft laws) were submitted to the legislature in order to secure reform of legislation discriminating against women;

(b) Projects: with the financial support of the Inter-American Commission of Women, the following projects have been implemented:

- Project for technology suitable for the rural woman, which benefited economically underprivileged women in 11 communities (it is hoped that during this year the number will be increased to 20);

- Training of women at present relegated to the margin of society in such spheres as nursing, home economics, literacy training and hand work;

- In 1984 there will be established the Women's Documentation and Information Centre, for dissemination of information on the achievements of women.

(c) Cultural activities: during the two-year period 1982-1983 the following have been carried out:

- Three workshop seminars, in various cities of the country, devoted to the family and to the importance of the woman as centre of the family viewed as the nucleus of society, and intended to make women aware of their legal and political rights.

- A workshop seminar held at Quito, for the benefit of persons working with women at prison rehabilitation centres.

- Publication of a brochure on the role of the family in Ecuadorian society and a supplement devoted to women issued by a leading Ecuadorian newspaper.

- Co-operation with the Institute of Family Studies, through publication of the periodical "La Mujer", the fifth issue of which appeared in December 1983.

(d) Fellowships and assistance in connection with international events: training has been given to women political and social leaders through international seminars and study fellowships.

23. Likewise worthy of mention is the work of the Secretariat General for Voluntary Service (SEGESVOL), a private organization having the objective of promoting and co-ordinating voluntary service institutions, so as to achieve a more effective impact on the community and avoid overlapping and waste of effort, by means of a training programme for volunteer ladies, advice to institutions affiliated to the Secretariat and inter-institutional co-ordination.

24. Among the many programmes conducted by SEGESVOL special mention should be made of the "Tarqui Project" which got its name from the place where it was held, the "Tarqui" settlement in the southern part of Quito. Launched in August 1979 in collaboration with the United States Overseas Education Fund, this project had the following objectives in mind:

- One of a general nature: the overall stimulation and development of the human qualities of the individual and hence of the qualities of the community; and

- Three of a specific nature:

  (a) The raising of the economic level of the family;

  (b) A reduction in the price of food, clothing and basic household equipment; and

  (c) Vocational training for the residents of the settlement, with a view to improving employment options and opportunities for self-employment.

25. In order to achieve these aims, the Tarqui Project provided for:

(a) The constitution and operation of a community co-operative, which participated in the construction, commissioning, operation and administration of a communal market;

(b) The establishment of a child care centre, in order to lighten the work of settlement mothers;

(c) The establishment of a centre for job training and instruction, which would generate or increase financial resources available to the residents of the settlement; and

(d) The establishment of a training centre offering courses of varying length on co-operative affairs, community development, human relationships, commercial and administrative skills, training in child care and management, health programmes, hygiene, etc.

26. The co-operative referred to in sub-paragraph (a) above began to operate in November 1979, was legally constituted in March 1980, and in April of that year began to administrate the communal market to whose establishment it had contributed. The centres referred to in sub-paragraphs (c) and (d) above, combined into one, began work a few days after the project had started. Finally, the centre mentioned in sub-paragraph (b) above became operational in November 1982, under the name of Centre for the Integral Development of the Child, and at present cares for 60 children between the ages of 18 months and 5 years.

Article 8 of the Convention.

27. As regards representation of the country at international level, it should be pointed out that the Organic Law on the Foreign Service, the legislative instrument which governs the subject in question, lays down the following as the sole conditions for entry into the diplomatic service (article 81):

"Candidates shall

(1) Be Ecuadorian citizens by birth and be over 21 years of age;

(2) Furnish proof of good public and private conduct;

(3) Know at least one foreign language;

(4) Give evidence of being in good health;

(5) Preferably hold the degree of licentiate (bachelor or master) or doctor of international law or of diplomatic studies, granted by a specialized higher educational institution;

(6) Be declared to be eligible on the basis of the selection procedure laid down in this law and its regulations."

28. The fact that the law places no restriction on grounds of sex has facilitated the entry of women into the Ecuadorian foreign service, whose female diplomatic staff has increased, even if slowly, in recent years. Recent statistical data show that, out of 268 officials holding diplomatic posts either at home or abroad, 19 are women, representing 7.08 per cent.

Article 9 of the Convention.

29. The national legal system provides for equality of rights between men and women as regards acquisition, change, or preservation of nationality. Section I, title I of the First Part of the Political Charter, entitled "Nationality" stipulates as follows:

"Art. 5. Persons may be Ecuadorian citizens by birth or by naturalization.

"Art. 6. Ecuadorian by birth are:

1. Persons born within the country;

2. Persons born abroad:

(a) Of a father or mother Ecuadorian by birth, and in the service of Ecuador or of an international organization, unless a wish to the contrary is expressed;

(b) Of a father or mother Ecuadorian by birth, who have taken up domicile in Ecuador or expressed their desire to hold Ecuadorian nationality, between the ages of 18 and 21 years.

"Art. 7. Ecuadorian by naturalization are:

1. Persons who have acquired Ecuadorian nationality for appropriate services to the State;

2. Persons who have obtained a naturalization certificate; and

3. Minors who have been legally adopted by Ecuadorians. Such persons retain their Ecuadorian nationality if they express the wish to do so between the ages of 18 and 21 years.

"Art. 8. Neither marriage nor the dissolution of marriage change the nationality of the spouses.

"Art. 9. Spaniards and Spanish Americans by birth who are domiciled in Ecuador are deemed to be Ecuadorians by naturalization, without losing their original nationality, provided they indicate their express wish for naturalization and the States concerned apply reciprocal arrangements.

"Art. 10. Persons holding Ecuadorian nationality at the time of promulgation of this Constitution continue to hold it.

"Art. 11. Ecuadorian nationality is lost:

1. For acts of treason, legally pronounced to be such;

2. By voluntary acquisition of another nationality, except as provided in article 9;

3. By cancellation of the naturalization certificate; and

4. In the other cases defined by law.

Ecuadorian nationality is recovered in accordance with the law."

30. Article 19 of the Naturalization Act contains, however, a provision which might be considered as to some extent discriminatory towards women and which extends the scope of the constitutional principle quoted in the preceding paragraph. It states:

"An Ecuadorian who acquires another nationality by naturalization ipso jure loses Ecuadorian nationality.

"The wife and minor children of an Ecuadorian becoming naturalized in another country lose Ecuadorian nationality if they acquire the foreign

nationality thereby; however, they retain the right to recover their original nationality upon termination of the marriage or on becoming of age, as the case may be."

This provision clearly puts the wife in the same position as the husband, assuming that naturalization of the latter in another country in fact involves the situation envisaged above.

Article 10 of the Convention.

31. As far as the right to education is concerned, the Constitution states the position clearly in general terms in article 27(7), which reads as follows:

"The State shall guarantee all members of the population access to education without any discrimination."

32. Setting forth in detail the above constitutional principle, the Education Act states in article 2(g) that "the State shall guarantee equal access to education and the elimination of illiteracy."

33. In its chapter on educational policy the National Development Plan mentions the "priority attention that should be given to the marginal urban population and the rural population and the need for education to serve the goal of constructing a country with a just society and clear national identity". It goes on to state that "the expansion of primary education in rural areas and literacy teaching will therefore receive special political and economic support in order to comply with the principle that the sectors of society that have lagged behind require priority attention".

34. In order to achieve these objectives, the National Plan prescribes the following methods:

"XIV. To encourage co-education and give women greater opportunities for entering occupations which have traditionally been the reserve of men.

"XX. Training the population for the organization of production to improve employment, income and welfare, to include indigenous groups in productive activity and the benefits of the country's development and to involve rural women."

35. This policy is reflected in the practical measures which have been adopted to obviate discrimination against women as regards education. Thus the curricula in national primary educational establishments are common to girls and boys, with the exception of "practical activities", an area in which different activities are provided in the case of girls, such as sewing, weaving, embroidering, cooking and so on. Similarly, the criterion of a common approach has been taken into account in the preparation of school textbooks, these containing material which aims at establishing equality of treatment and opportunity as between men and women.

36. According to data from the 1982 Housing and Population Census, supplied by the Ministry of Education and Culture and annexed to this report (appendix 2, tables 1 to 12), the school-age population - between the ages of 5 and 19 years - represents 37.49 per cent of the total population of the country; of this figure 50.36 per cent are male and 49.64 per cent female. The female population enrolled in schools represents 76.64 per cent of the total [female] population in the age group in question, leaving an illiterate (marginal) group of 23.36 per cent.

37. The tables showing the incidence of abandonment and repetition of studies in pre-primary, primary and secondary education denote a marked tendency to decrease

in recent years, and in any case the academic wastage is less in the case of girls (tables 10, 11 and 12 of appendix 2). It should at the same time be pointed out that the percentage relating to the two categories in question has a negative connotation in that it is added to the figure for illiteracy (marginality) quoted in the preceding paragraph.

38. From a comparison of the figures for enrolment of female pupils with those for males in the different classes during the period 1982-1983, it can be seen that, expressed as a percentage of the total enrolled population, the female enrolment is the following: pre-primary, 50.11 per cent; primary, 48.89 per cent; secondary, 49.87 per cent. This shows that male enrolment is in fact greater than the female, though only by one or two points.

39. Of the 190,157 pupils graduating from primary school, 49.5 per cent are girls. If this is compared with the number of female pupils enrolled in secondary school (which, although it does not correspond to precisely the same group, nevertheless enables an approximate relation to be established), it will be seen that there are 12.54 per cent of illiterate (marginal) females, compared with 5.47 per cent males.

40. With regard to diversified technical courses (the last three years of secondary technical education), the percentage enrolment is greater in the case of women (40.19 per cent) than in that of men (27.99 per cent), a fact which might be considered encouraging were it not for the further fact that the majority of women enter upon subordinate careers in commerce, administration or hand work, apart from in other traditional female activities, which means that they are debarred from real participation in the social and economic development of the country.

41. Of the total population of school age, 49.16 per cent reside in urban areas and 50.84 per cent in the country. Of the first group, 50.93 per cent are girls and 98.36 per cent of these are enrolled at a school, thus leaving a very low unenrolled percentage. In the country, on the other hand, the percentage of girls not enrolled in school reaches a fairly high figure: 44.36 per cent.

42. Regarding technical education, the National Development Plan lays down the following objectives:

> "vi. To cultivate love and respect for manual and intellectual work. Education should therefore not be a matter of memorizing, but should establish an organic link between knowledge and work (...)
>
> "vii. To encourage scientific and technological research, in the light of our natural resources and the requirements of productive activity, as a suitable means for offsetting our dependence on other countries (...)
>
> "ix. To strengthen vocational and professional guidance services throughout the educational process."

43. And in order to achieve these objectives, the following policies are defined:

> "x. Investigation of the job profiles required by the various sectors of the economy, in order to guide the preparation of programmes and curricula for secondary and higher education and training courses (...)
>
> "xii. Establishment of a national system of technical and vocational practical training which will result in the organic integration of secondary and higher technical educational institutions, training institutions and business firms in order to give students broader practical knowledge,

familiarizing them with work and production techniques. This will also make it easier for those graduating from such institutions to establish themselves in the labour market."

44. The statistics for the period 1982-1983 (appendix 2, table 5), indicated that of the 404 technical colleges in the country, 324 are mixed, 26 are for men only and 54 are exclusively for women. These establishments operate at post-basic level, with the opportunity to obtain a certificate of secondary technical education at the end of the course. There are also short courses of one to two years after the award of the certificate of secondary education, in both cases for men and women alike.

45. At these establishments there is a preference on the part of the women students for the technical industrial area and the area of commerce and administration, and within the first named area, mainly for the clothing industry, domestic science, small-scale industry, interior design and decoration, die-making, manual crafts and the food industry. In very few cases women enrol in agriculture, engineering or art.

46. There are no restrictions on women's participation in the teaching profession in Ecuador, and in view of the large number of women who choose it, it would not be going too far to detect a greater aptitude on the part of women in this field, on the basis of their mental and physical characteristics. Thus, of the 1,032 lecturers at teachers' training institutions, 57 per cent are men, and among the students, 12,025 out of a total of 18,024, or 67 per cent, are women. Similarly, almost all the teachers at pre-primary level are women (95.72 per cent), a percentage which decreases to 65.38 at primary level and drops sharply (to 39 per cent) at secondary level, the causes for which are unknown because thus far no studies have been undertaken to determine them.

47. In the field of literacy training, it should be pointed out that, although the illiteracy rate is greater among women, during recent years an extensive effort has been undertaken in order to integrate the female population, particularly that of rural areas, into the educational process. Thus, in 1983 participation by women from marginal areas in literacy and basic training programmes was as follows:

LITERACY

Level	Spanish	Vernacular	Total
I	45,845	11,975	57,820
II	32,209	-	32,209
III	45,509	8,031	53,540
Total	123,559	20,006	143,569

Basic professional training: 31,261 participants.

48. From 1975 to 1977 through the Education for Development Units, and from 1977 to 1979 with the guidance of the Department of Adult Education and Educational Co-ordination for Development, the Ministry of Education provided services for literate women at basic vocational training centres, with the aim of training them in occupations which would enable them to improve their economic and social status in the crafts and services sectors, the instruction taking the form of courses lasting two or three school years depending on the particular field. Upon completing the courses the women were given diplomas qualifying them for the free exercise of their professions. As from 1980 this task passed to the National

Literacy Office, which imparted a great stimulus to the establishment of new centres. The National Literacy Programme succeeded in reducing the rate of illiteracy from 21.6 per cent to 12.4 per cent by July 1982, and it is hoped that by August 1984 the rate will have been lowered to 5.9 per cent.

49. The Ecuadorian Institute for Educational Credit and Fellowships (IECE), a State body responsible for the planning and overall implementation of the educational credit programme at national level and for the central administration of nationally and internationally financed fellowships programmes, is at present carrying out two programmes:

(a) Educational Credit: this is a loan which is granted to Ecuadorians who are academically deserving but have insufficient funds, so that as beneficiaries of the loan they can afford the partial or total cost of financing their education, specialized education, further education or training, and can enjoy the use of the educational services to which they are entitled; and

(b) International Fellowships: this involves the administration of the fellowships programmes offered to Ecuador both by the Governments of friendly countries and by international organizations.

50. In spite of the fact that there are no legal obstacles to the participation on an equal footing of women as beneficiaries under the above-mentioned programmes, it can be observed by reference to the tables annexed to this report (appendix 3) that up to May 1983 the percentage of women having had recourse to them was rather low.

Article 11 of the Convention.

51. The right to work is also guaranteed under the Fundamental Charter. Article 19 (10) establishes the "freedom of work, commerce and industry, subject to the provisions of law". However, the Constitution does not confine itself merely to enunciating this fact, but devotes a complete section to the regulation of labour relations, namely title II, section V of the First Part, called "Labour":

> "Art. 31. Work is a right and a social duty. It enjoys the protection of the State. The law guarantees to the worker the respect for his dignity, a decent existence and remuneration adequate to cover his essential needs and those of his family, and is governed by the following fundamental rules:
>
> (a) Labour legislation and its application are subject to the principles of social law;
>
> (b) The State aims to eliminate unemployment and underemployment;
>
> (c) The State guarantees the inviolability of the rights granted to workers and adopts the measures necessary for their extension and improvement;
>
> (d) The rights of workers are irrevocable. Any provision implying the waiving, diminution or alteration of these rights is null and void. Actions to claim them may be brought within the time laid down by law, beginning at the date of termination of the labour relationship;
>
> (e) In cases of doubt regarding the scope of legal, statutory or contractual provisions governing labour matters, a decision shall be made in the direction more favourable to the workers;
>
> (f) Wages shall not be distrainable, except in the case of maintenance payments. All money owed by an employer for work done constitutes a first-class preference credit, taking precedence even over mortgage credits;

(g) Workers shall share in the liquid profits of undertakings, in accordance with the law;

(h) The right of workers and employers to form trade unions and associations, freely and without prior authorization, and in accordance with the law, is guaranteed;

(i) The right of workers to strike and the right of employers to practice lock-outs is recognized and guaranteed, in accordance with the law;

(j) Without prejudice to the overriding liability of the person directly responsible, and also without prejudice to rights of recovery, the person for whose benefit work is done or a service is rendered is fully responsible for compliance with the provisions of social legislation, even where the work contract is concluded through intermediaries;

(k) Labour disputes shall be submitted to conciliation and arbitration tribunals, composed of workers and employers, sitting under an official of the labour organization; these tribunals shall alone be competent for the assessment, handling and settlement of disputes;

(l) For purposes of payment of the compensation to which a worker may be entitled, remuneration shall be understood to mean all that the worker receives in cash, services or kind, including payment for overtime and supplementary work, piece-work, commission, profit-sharing or any other form of remuneration normally accepted in the industry or service.

Exception shall be made in respect of the legal percentage of profits, subsistence allowances or occasional subsidies, thirteenth-month and fourteenth-month salary payments, salary adjustments, bonuses and the value of social services."

52. The Labour Code expands the general statements of the Constitution, thus facilitating their application and making it easier for workers to have recourse to the courts of justice when their rights have been infringed. It should be explained that in Ecuador conflicts arising out of labour relations are subject to a special jurisdiction, that of the Labour Courts. These are the courts of first instance for handling all cases arising out of claims by workers against their employers or vice versa, with the Labour Judge entering a decision to settle the dispute. This decision is subject to appeal by plaintiff or defendant, or by both, depending on which of them considers his interests to have been prejudiced, before the Higher Court and then the Supreme Court of Justice, which also deals with matters other than labour disputes.

53. Security of job tenure is established in article 14 of the Labour Code, which lays down a period of "one year as minimum duration of any contract of labour for a fixed period or an indefinite period concluded between workers and undertakings or employers in general, provided that the activity or work is of a permanent nature, without it being permitted in such circumstances to convert contracts for an indefinite period into contracts for a fixed period".

54. Article 78 of the Labour Code categorically lays down the right to equal pay, and expressly renounces distinctions on grounds of sex, inter alia:

"Equality of pay. Equal work shall be remunerated by equal pay, without distinction of sex, race, nationality or religion; nevertheless, training and experience in performing the work shall be taken into account for purposes of remuneration."

55. Regarding the right to social security, the Ecuadorian Institute of Social Insurance (IESS) - an autonomous body responsible for insuring every person over the age of 14 years, irrespective of sex, marital status or profession, and who is carrying out a job or providing services under a work contract or an appointment - approaches the situation of women from three points of view: as an employer, as an affiliate of the Institute, and as a beneficiary of the Institute.

56. The woman as employer: Although, for individual reasons or on grounds of custom, there are in practice few cases in which a woman manages or directs a large or medium-sized undertaking, there are on the other hand numerous small commercial undertakings or workshops in the crafts and services sectors or in dressmaking which are directed by women. In these cases, and also in cases of employment of domestic servants, a woman employer has the same duties and obligations towards the IESS as have male employers, namely: (a) as employer she must register her undertaking with Social Insurance; (b) she must register each worker in her employment with Social Insurance, by returning the form entitled "Notice of Entry"; (c) she must each month deduct from the remuneration of her workers the personal contributions due from them and send these, together with the employer's contributions, to the IESS; (d) she must forward each year to Social Insurance the reserve funds of the workers in her employment; (e) she must supply Social Insurance with any information it may request regarding affiliated workers; and (f) she must inform Social Insurance promptly of any labour accidents befalling her workers.

57. Women as affiliates of the IESS: With the exception of a single case, which will be described below, women affiliated to the Ecuadorian Institute of Social Insurance are in exactly the same situation as men as regards rights and obligations vis-à-vis the Institute. Women pay as social insurance contributions the same percentage of their wages as do men, and - with the exception of maternity insurance, naturally something peculiar to women - they enjoy the same benefits. Except in the case which will be set forth below, they must fulfil the same conditions in order to qualify for the various types of insurance cover, and when they have complied with the general conditions laid down in the relevant legislation, they receive the same insurance benefits as men.

58. Notwithstanding the foregoing, as an exception it should be noted that, by a Decree published in Official Gazette No. 48 of 19 October 1979, repeating the terms of Legislative Decree No. 68-01, published in Official Gazette No. 447 of 22 August 1968, working women with 25 years' contributions are entitled to take their retirement, irrespective of their age, and to a pension equivalent to 100 per cent of the average of the five best-remunerated years of their affiliation. However, in spite of the above Decree being in force, the IESS has been unable to implement it owing to lack of the necessary funds, a situation which could cause the financial collapse of the pensions system, apart from constituting a privilege discriminating in favour of women, since the general labour legislation provides for 30 years' contributions and a minimum age of 55 in order to qualify for retirement, with a pension equal to 75 per cent of the average of the five best-remunerated years of affiliation.

59. Women as social insurance beneficiaries: Under the Ecuadorian social insurance system, women can qualify for pensions from the Institute as surviving spouse, as common-law wife of an insured single man, as daughter, mother or sister of a deceased pensioner or insured person, or as a person entitled to end-of-service benefits.

60. Life insurance:

(a) Surviving spouse: On the decease of a social insurance pensioner or of an insured person having contributed at least 60 monthly payments, the widow of the

deceased is entitled to a monthly widow's pension, not subject to any conditions. This pension continues to be paid for as long as the surviving spouse does not remarry, and if she does so her right to the pension is extinguished, after payment to her of a dowry equivalent to 24 monthly instalments thereof. In case of decease of a female social insurance pensioner, or of an insured woman having contributed to the IESS for at least five years, the surviving spouse is entitled to a widower's pension only in cases where he is incapacitated for work and can prove that he was living in economic dependence on his deceased spouse. In this case, if the beneficiary remarries, the pension is discontinued without giving rise to a dowry payment as in the case of a widow;

(b) Common-law wife: A single woman who has lived for five or more years under the same roof as, or who has had children by, an insured single man or male pensioner, enjoys the same rights as a surviving spouse as regards widow's pension, including the dowry if she contracts a marriage or begins a further co-habitation. The rights of the common-law wife were stated in Decree No. 115 of 22 December 1982, published in Official Gazette No. 399 of 29 December 1982. On the decease of a common-law wife who has been a social insurance contributor or pensioner, the surviving common-law husband enjoys no right to a widower's pension, even in cases where he is incapacitated for work and has been economically dependent on the woman with whom he has been living in common-law marriage;

(c) Affiliate's daughter: On the decease of an IESS pensioner or a contributor who has made at least 60 monthly payments, the following relatives are entitled to orphan's pensions on the same basis as the pensions payable to the surviving spouse or common-law wife referred to in the preceding paragraphs: children of less than 18 years of age, children who are students up to the age of 25 years, unmarried daughters of any age, and widowed or divorced daughters who, through absence of an income of their own, were economically dependent on the deceased father;

(d) Affiliate's mother: On the decease of a pensioner or insured person who has paid social insurance contributions for at least five years, and in the absence of a surviving spouse, common-law spouse or qualifying children, the mother of the affiliate or, if she is not living, the father of the affiliate are entitled to a pension if they are without means and have lived at the expense of their deceased son;

(e) Affiliate's brothers and sisters: On the decease of a pensioner or affiliate who has paid social insurance contributions for at least five years, and in the absence of a surviving spouse, common-law spouse or qualifying children and parents, brothers and sisters aged less than 18 years, brothers and sisters engaged in studies up to 25 years of age and brothers and sisters incapacitated for work who were living at the expense of the deceased brother at the moment of his death are entitled to a pension.

61. As will be inferred from the preceding sections, the situation of women is not only not inferior to that of men but women are on the contrary in a privileged position by the mere fact of their sex.

62. Life insurance against industrial accidents and end-of-service payments: The same considerations as those set forth in the preceding paragraphs apply in the case of the decease of an insured person as a result of an industrial accident; the situation is likewise the same in cases where the death of an insured person gives rise to end-of-service payments or when on the death of a pensioner or insured person payments are due from the Life Insurance Fund. It should be added only that, in the case of end-of-service payments and payments from the Life Insurance Fund, the sum in question is divided equally among the beneficiaries in each category of the family group and that, in such cases, a common-law wife has no entitlement.

63. Maternity insurance: Any affiliate who has paid six compulsory monthly contributions during the year previous to the birth, of which at least one contribution must relate to the first quarter of that year, is entitled to the benefits payable under Maternity Insurance. These benefits are: (a) obstetrical assistance, consisting of prenatal care, and care during the birth and post-partum period; (b) a cash grant during the two weeks before and the six weeks after the birth, equivalent to 75 per cent of the average of the wage or salary paid during the last three months prior to the first day of maternity leave; (c) a layette service; and (d) medical attention for the child during the first year of life.

64. There is at present in preparation a programme for extending insurance cover to new groups of the population, whether by introducing the compulsory system in the case of certain categories of salaried workers, such as agricultural workers, or by a system of voluntary affiliation for self-employed persons, or, finally, by extension of the sickness and maternity insurance benefits to the family members of the persons at present insured, all of which would mean the gradual access of paid female agricultural workers, self-employed women and the spouse and daughters of insured persons to social insurance benefits.

65. Title I, chapter VII of the Labour Code, entitled "Work by women and young persons", lays down a series of rules for industrial safety, taking account of the organic differences between women and young persons on the one hand and adult men on the other, the result being the imposition of certain restrictions on the work which they may perform. Thus, for example, article 138 of the Labour Code prohibits night work:

> "Night work by women and males under the age of 18 years shall be prohibited, with the exception of domestic service.
>
> "However, with regard to work by women, the prohibition shall be waived in case of the exercise of managerial or technical or professional functions, of health or welfare work or of any other activity not of a manual or industrial character, or which does not prejudice the physical or moral health of the worker, always subject to written authorization by the Juvenile Tribunal, which shall in each case give the reasons for its decision."

66. Article 139 of the Labour Code likewise prohibits unhealthy and dangerous work by women and boys under the age of 18 years, and then proceeds to list the types of work in question:

> "(a) Distillation of alcohols and manufacture or mixing of spirits;
>
> (b) Manufacture of white lead, red lead or any other toxic pigments, and likewise the handling of paints, enamels or varnishes containing salts of lead or arsenic;
>
> (c) Manufacture or preparation of explosives or inflammable or caustic materials, or work in premises or places where any of the above-mentioned substances are manufactured, prepared or stored;
>
> (d) Cutting and polishing of glass, polishing of metals with emery, and work in any premises or places where there is regular release of irritating or toxic dusts or vapours;
>
> (e) Loading or unloading of ships, even where this is done by cranes or derricks;
>
> (f) Work under ground or in quarries;

(g) Work as locomotive drivers or firemen;

(h) Handling of drive belts, circular saws or other dangerous machinery;

(i) Glass or metal founding;

(j) Transport of incandescent materials;

(k) Dispensing of alcoholic, distilled or fermented beverages;

(l) In general, work constituting a grave danger for the moral welfare or physical development of women and boys of the age stated.

Labour inspectors must inform the Directorate General of the branch of industry in question, or the subdirectorates, of work or industries which they consider to fall within the above categories, on pain of dismissal."

67. With exclusive reference to women and the protection of their reproductive function, the Labour Code is categoric in establishing guarantees regarding security of job tenure, equal pay and the necessary social services to ensure that parents can combine their family duties and their working responsibilities, and in providing for the infliction of penalties on employers who violate the regulations:

"Art. 153. Work prohibited for female staff. Work by female staff is prohibited during the time between two weeks before and six weeks after childbirth.

"In such cases absence from work shall be justified by submission of a medical certificate issued by a medical officer of the Ecuadorian Institute of Social Insurance or, failing this, by another professional person; the certificate shall indicate the probable date of birth or the date when birth took place.

"Art. 154. Protection of pregnant women. A work contract may not be terminated on account of pregnancy of a female worker, and the employer may not replace her permanently within the eight-week period laid down in the preceding article.

"During this period the woman shall be entitled to draw full pay, except in the case provided under the compulsory Social Insurance Act, and shall likewise enjoy benefits not less favourable than those laid down in this Code.

"Art. 155. Incapacity for work owing to illness due to pregnancy or childbirth. In cases where a woman remains absent from her workplace for a period of up to one year as a result of an illness which, according to the medical certificate, is due to pregnancy or childbirth, and renders her unfit for work, her work contract may not be terminated on these grounds. Wages shall not be paid for any time exceeding the eight weeks fixed in the preceding article, without prejudice however to the option to assign a longer period under collective work contracts.

"The provisions of the preceding paragraph do not cover the exceptions listed in article 14.

"Except in the cases defined in article 171, a pregnant woman may not be dismissed or evicted as from the commencement of pregnancy, to be established by submission of the medical certificate issued by an official of the Ecuadorian Institute of Social Insurance or, failing that, by another authorized person.

"In cases of dismissal or eviction as referred to in the preceding paragraph, the Labour Inspector shall order the employer to pay the female worker compensation equivalent to one year's salary, without prejudice to any other rights she may have.

"Art. 156. Day nurseries and nursing of infants. At permanent places of work having 50 or more workers, the employer shall establish on or near the premises or work centre a day nursery service for the care of workers' children, with cost-free provision of attendance, food, and the necessary space and equipment.

"At such establishments the mother shall be entitled to a free period of 15 minutes every three hours during the nine months following the birth for the purpose of nursing her child.

"At undertakings or work centres which do not have day nurseries, the working day of the nursing mother during the nine months following the birth shall be six hours, to be fixed or distributed in accordance with the collective contract, the internal regulations of the establishment or by agreement between the parties."

68. The exception to which the second paragraph of article 54 refers is that of the maternity grant accorded by the Ecuadorian Institute of Social Insurance to female workers. Workers in private undertakings shall draw 75 per cent of their wage during the eight weeks' leave of absence to which the article in question refers, the employer having to pay the remaining 25 per cent. Female workers in the public service, on the other hand, enjoy two months' maternity leave.

69. The exceptions listed in article 14 referred to in the second paragraph of article 155, quoted above, are:

"(a) Special-service contracts, outside the normal practice of the undertaking or employer;

(b) Occasional, temporary or precarious contracts, or contracts not of a customary nature;

(c) Domestic service contracts;

(d) Apprenticeships;

(e) Contracts concluded between craftsmen and their workers; and

(f) Probationary contracts."

70. The reference to article 171 appearing in the third paragraph of article 155 quoted above concerns the causes for which the employer may terminate the contract; these are as follows:

"1. Repeated and unjustified tardiness or failure to attend the work place or abandonment of the work place for a period of more than three consecutive days, without proper cause and provided that the transgressions in question have occurred within a period of one working month;

2. For serious acts of indiscipline or disobedience in respect of the legally approved internal regulations of the establishment;

3. Dishonesty or immoral conduct;

4. Grave damage to the employer, his spouse, his relatives in the ascending or descending line, or his representative;

5. Clear incompetence with regard to the task or work for which the worker was recruited;

6. Unjustified complaints against the employer regarding his obligations under social insurance. On the other hand, where the complaint is justified, the worker shall have his security of tenure guaranteed for a period of two years; and

7. Failure to observe the rules of safety, accident prevention and hygiene required by law, by regulation or by the competent authority; violation, without proper justification, of medical instructions and advice."

Article 12 of the Convention.

71. The Ministry of Public Health has prepared a general report on activities being carried out on behalf of Ecuadorian women, and it is hoped shortly to receive detailed information on this work, which will be submitted to the Committee on the Elimination of Discrimination Against Women as soon as possible.

72. As regards health, the situation of women should be considered from two points of view: the woman as a working official and the woman as a recipient of health benefits. In connection with the first of these, it should be stressed that for some years past women have been playing a prominent role either as senior officials in certain areas - where they have an important share in decision-making, programming and training under the various programmes assigned to them - or as members of the Health Team which, in collaboration with other professions and disciplines, undertakes the administration, organization and operation of various health services and is also responsible for the direct care of persons.

73. Regarding the second point of view, the services which the Ministry of Public Health offers to women are essentially adapted to the various physiological stages through which women normally pass during the course of their life. Thus, the Ministry of Public Health makes arrangements to take care of the family in general and of the mother and child in particular.

74. Special care is devoted to women during pregnancy, childbirth and the post-partum period. In pregnancy, emphasis is laid on early diagnosis, periodic checks, vaccination, dietary supplements, and the appropriate educational work, so as to protect the health of the mother and the future child. Women in childbirth are cared for differently depending on whether they live in town or country; in the latter case the Ministry assigns an important role to the practical midwives, who attend the great majority of births in rural areas - doing their work in accordance with long-established social custom - and who are trained to observe the essential hygienic precautions which help to prevent complications. During the post-partum period the mother receives home visits at which, apart from medical checks, emphasis is laid on the importance of feeding with mother's milk and the care and supervision which the child requires.

75. As a further activity in the health field, examinations are carried out for the early detection of mammary and uterine cancer. In addition, the Ministry offers information facilities, if the parents so desire, in connection with spacing of pregnancies, and all this work has the effect of protecting the health of mother and child.

76. In the field of family planning, the Ecuadorian State guarantees the right of parents to have the number of children which they can maintain and educate, and

likewise advocates a responsible attitude to parenthood and encourages educational activities enhancing the status of the family (article 24 of the Constitution).

77. However, private bodies have been the most active in this field. This is the case with the Centre for Population Studies and Responsible Parenthood (CEPAR), which has conducted its activities in three main spheres:

(a) Training: by means of training programmes for professional people and leaders in civic and community affairs regarding matters of population and family planning;

(b) Information: by publicizing the relevant and topical aspects of population questions and family welfare and family planning; and

(c) Research: by means of compilation of information available on various aspects of demography, family planning and sex education.

78. In addition to the above projects, the CEPAR, with the assistance of experts, has organized meetings and seminars, and also training campaigns in the form of dissemination of printed material on the subject, and is preparing a survey of the knowledge of these matters possessed by leading people in the country.

Article 14 of the Convention.

79. Within the framework of the National Development Plan, the Secretariat of Overall Rural Development (SEDRI) was set up with the aim of preparing, implementing and evaluating the overall rural development projects contemplated in the policies laid down in the Plan. These projects approach the problems of marginal rural sectors on the basis of an overall concept and placing emphasis on participation by country residents. This means that activities are not laid down in advance, but emerge from inquiry and from an ongoing dialogue between technicians and country residents. It is the dynamic conversion of these processes into a specific reality which determines the courses of action adopted. Thus, in a number of projects there are activities in which women are deeply involved (appendix 4).

80. Rural women also participate in 20 community development projects implemented at national level by the Ministry of Agriculture and Stockbreeding's Division of Rural Development, the aim of which is to promote the operational and social development of rural organizations, through the implementation of production support programmes and the provision of infrastructure and basic social services. In these projects women participate: (a) in rural organization; (b) as recipients of credits; and (c) in community work. In the 20 community projects, 41 women who are heads of families have received loans for the cultivation of potatoes, maize, kidney beans, broad beans, barley, cacao and bananas and for the purchase of livestock.

81. The National Development Bank also grants credit to physical or juridical persons who meet the conditions laid down in its charter, with no discrimination, including no discrimination on grounds of sex, and has implemented a number of projects involving the grant of credits subject to the conditions governing its operations, in which women can participate as prospective recipients of the loan for which application is being made.

82. The Marginal Rural Development Fund (FODERUMA), a subsidiary of the Central Bank of Ecuador and acting as a support mechanism for marginal rural sectors, channels resources by opening up sources of credit; supplementing its action by social projects aimed at achieving overall development, it considers that community participation is an essential factor which must be taken into account throughout

the process. In the light of this, its objectives include "promoting the participation of women in rural organizations and hence in the entire development process".

83. It was in line with this purpose that in June 1979 the Rural Women's Programme was launched as a part of the Integral Projects of FODERUMA, which is intended to encourage deliberate and critical participation by women, and also to create opportunities for training and employment by means of programmes of social training and self-managing production projects, the whole being intended to promote and improve the status of women (appendix 5).

Articles 15 and 16 of the Convention.

84. The principle of equality of women, as mentioned in paragraph 5 of this report, is formally propounded in the Constitution itself, but the spirit of this concept pervades all the rest of the national legal system, subject to a very few exceptions which will be indicated below.

85. In the field of civil law, article 139 of the Civil Code establishes the equal opportunity for men and women to exercise their legal capacity, stating:

> "The wife does not require the consent of the husband to dispose of her property either by testament or inter vivos. She has in general the same capacity which she would have were she unmarried in all matters respecting her own property or the conduct of business involving third parties."

86. Unfortunately, when this reform was introduced into the Civil Code in 1970, similar measures were not taken in respect of the procedural legislation, which still contains discriminatory provisions which have for some time been giving rise to contradictory decisions by the Supreme Court of Justice. In order to find a solution for this anomalous situation, Supreme Decree No. 1482 published in Official Gazette No. 355 of 10 June 1977 settled the differences of opinion on the subject and stipulated: "It is hereby expressly stated that a married woman has the legal capacity to appear in court in any capacity, as plaintiff or defendant."

87. Freedom of movement is a constitutional right guaranteed under the Political Charter of the State, article 19 (8) of which grants to all persons:

> "The right to move freely throughout the national territory and to choose their place of residence. The law establishes the restrictions essential for the maintenance of national security.
>
> "Ecuadorian citizens enjoy freedom to enter and leave the country. The movement of foreigners is governed by the relevant provisions of law; ...".

88. Restrictions imposed by law may in no case be based on the sex of the persons concerned; nevertheless the Civil Code contains certain contradictory provisions on this subject. Article 57 lays down that "the original domicile of the spouses shall be the place of marriage, but either or both of them may subsequently lose this domicile and acquire another in accordance with the general rules of the law", while article 135 provides that "the husband shall be entitled to require his wife to live with him and to follow him wherever he may transfer his residence, except where a court finds there are serious and commensurate grounds to the contrary. The wife shall be entitled to require the husband to receive her into his house."

89. Observance of the principle of equality of the legal status of spouses is illustrated by the provision contained in article 96 of the Ecuadorian Civil Code, which states:

"Likewise constituting grounds for nullity of the marriage is absence of free and spontaneous consent on the part of one or both parties, at the time of conclusion of the marriage, for one or more of the following reasons:

1. Error regarding the identity of the other party;

2. Mental illness rendering a party unsound in mind;

3. Abduction of the woman, provided that at the moment of conclusion of the marriage she has not recovered her liberty; and

4. Grave and serious threats such as to instil uncontrollable fear."

90. Regarding the rights and responsibilities of parents in matters connected with their children, reference may be made to article 279 of the Civil Code:

"Children conceived in wedlock owe respect and obedience to their father and mother; but are especially under the authority of their father.

"Children conceived out of wedlock but who have been voluntarily recognized by both parents at the same time or who have been judicially declared legitimate in one and the same court decision are governed by the preceding rule.

"Children conceived out of wedlock who have been recognized by only one parent owe respect and obedience to that parent only.

"Children conceived out of wedlock who have been voluntarily recognized by both parents at different times are in principle under the authority of the first parent to have recognized them, except where a judge has granted their custody to the other parent, in which case obedience is due primarily to that parent.

"Preference will normally be given to the parent having voluntarily recognized the child, rather than to a party who has been judicially declared to be a parent, for purposes of custody of the child, except in special and serious cases where the judge has ordered the opposite arrangement in the interests of the child.

"A father or mother who have been legally declared such may require from the child no other duty than that of obedience and respect."

91. As will be seen from the foregoing provision, notwithstanding the general equalization of the rights of spouses effected by the reforms of 1970, there remain in Ecuadorian civil law certain provisions prejudicial to the principle of the equality of the sexes before the law. The same kind of anomaly occurs in articles 292 and 293 of the Civil Code, the text of which is as follows:

"292. The father shall have the right to reprimand and punish his children in moderation; if this does not have the desired effect he may request the juvenile court judge to confine the child in a special establishment, on conditions laid down in the Minors' Code.

"293. The rights granted to the father in the preceding article extend in his absence, incapacity or death to the mother or to any other person assuming legal custody of the child; however, these rights may never be exercised against a child over 18 years of age."

92. This lack of equality to the disadvantage of the wife, taking the form of granting her only restricted powers in exercise of her rights and obligations respecting her children, is unfortunately repeated in more than one Ecuadorian legal provision. Such is the case with the right to direct the education of children, set forth in article 294 of the Civil Code:

> "The father, or failing him the mother, shall have the right to direct the education of the children; however the children shall not be obliged to take holy orders or to marry against their will",

while article 282 of the Code stipulates that:

> "The direction of the upbringing and education of the children is the joint responsibility of the parents, or the responsibility of the surviving father or mother."

93. Regarding the institutions of guardianship and trusteeship, the Ecuadorian Civil Code defines them in article 385, as follows:

> "Guardianships and trusteeships represent an undertaking to give necessary protection to persons who are unable to look after themselves or competently to administer their affairs and who are not under parental authority.
>
> "The persons exercising these responsibilities are called guardians or trustees",

and goes on to specify in what cases these responsibilities take the name of guardianship or of trusteeship, together with the categories thereof:

> "388. Minors are subject to guardianship.
>
> "389. Persons placed under judicial restraint are subject to general trusteeship.
>
> "390. Trustees to property are appointed to take charge of the property of an absent person, of unclaimed estate and of the eventual rights of persons unborn.
>
> "391. Associate trustees are appointed in certain cases in respect of persons who are under the authority of their father or mother or under guardianship or general trusteeship, for the purpose of exercising independent management.
>
> "392. A special trustee is a trustee appointed in a particular case."

94. In general there is no discrimination against women in the exercise of these functions, although we do find the same restriction of the mother's rights to cases where the father is absent, with respect to emancipated minor children of parents still alive and to the judicial suspension of parental authority. The following is provided in article 411 of the Civil Code, referring to the judicial guardianship to be instituted when testamentary guardianship expires:

> "Parties called upon to exercise judicial guardianship are:
>
> Firstly, the father of the minor;
>
> Secondly, the mother;

Thirdly, the other ascendants;

Fourthly, the brothers of the ward and the brothers of the ward's ascendants ...".

95. Title XIII of the First Book of the Ecuadorian Civil Code refers to adoption, which is defined as "the institution under which a person, called the adopter, acquires the rights and contracts the obligations of father or mother, as defined in this title, in respect of a minor who is called the adoptee" (article 332). This definition places men and women on an equal footing as regards the rights and obligations towards adoptees. This equality further emerges from the provisions of article 334 of the Code, whose text is repeated word for word in article 84 of the Minors' Code, laying down the prerequisites for adoption and omitting any reference to considerations of sex:

"For a person to adopt a minor, the following conditions must be fulfilled: the adopter must enjoy legal capacity; he or she must have free disposal of his or her property; he or she must be over 30 years of age and must be at least 14 years older than the adoptee."

96. The right to choose the family name is guaranteed under the Civil Registration Act, article 82 of which reads as follows:

"Married woman, widow, divorced woman or judicially separated woman. A married woman may add to her name that of her husband preceded by the preposition 'de'.

"A widow may continue using the name of her deceased husband, preceded by the preposition 'de'. If she has been widowed more than once, she may use the name of her last deceased husband. In both cases, if she so prefers, she may use her maiden name.

"A divorced woman shall use her maiden name.

"A judicially separated woman may use the name of her husband preceded by the preposition 'de'."

97. The article quoted above grants women the right of retaining their maiden name even when they are married or, having been married, when they are judicially separated or widowed. This right is implicit in the use of the word "may", which, in the absence of the mention of any specific alternative, represents only the right to use the maiden name.

98. With respect to the rights accruing to spouses in connection with ownership, purchase, management, administration, usufruct and disposal of property, it should be pointed out that, under Ecuadorian law, the mere conclusion of the marriage gives rise to the "marriage partnership", except in cases where the spouses, under marriage articles or by a decision subsequent to marriage, agree to establish a régime of separation of property. Article 137 of the Ecuadorian Civil Code provides as follows:

"Through marriage concluded in accordance with Ecuadorian law, joint ownership of property is established between the spouses.

"Persons who have married abroad and who establish their domicile in Ecuador shall be regarded as governed by the régime of separation of property unless, in accordance with the law under which they married, joint ownership of property was established."

99. Articles 149 and 151 of the Code refer to the marriage articles mentioned in the preceding paragraph; the text states:

"149. Marriage articles are the agreements which a couple concludes before contracting marriage, or which spouses conclude in cases of reconciliation after judicial separation, in respect of the property, donations and assignments which they desire to make one to the other, at present or in the future.

"151. In the marriage articles the couple designates:

1. The property which each party brings to the marriage, with an indication of its value;

2. The debts of each party;

3. The inclusion in the marriage partnership of certain property which, under the normal rules, would not be so included;

4. The decision, taken by each party, that certain property, which under the normal rules would be included in the marriage partnership, shall be governed by the régime of separation of property; and

5. In general, the rules governing the administration of the marriage partnership can be amended in the marriage articles, provided that no damage to the interests of third parties ensues."

100. As a general rule, the property listed in article 157 of the Civil Code forms part of the marriage partnership; the text reads as follows:

"The assets of the marriage partnership consist of:

1. The salaries and emoluments paid in respect of all kinds of employment and functions arising during the marriage;

2. All the fruits, yields, pensions, interest and profit of any kind whatever, originating either from the joint property or from the sole property of each spouse and arising during the marriage;

3. The money which either of the spouses contributes to the partnership or acquires during it; the partnership being obliged to return an equal sum;

4. The fungible things and the movables which each spouse contributes to the marriage or acquires during it, the partnership being obliged to return the value thereof, according to its worth at the time of contribution or acquisition; and

5. All the property which either spouse acquires during the marriage, for valuable consideration.

"The above rules may be amended by the marriage articles, as provided in article 151."

There are certain restrictions referring to property acquired by either spouse gratuitously.

101. The administration of the joint property established by virtue of the marriage is generally the responsibility of the husband, who "may authorize the wife to perform acts relating to such administration", as laid down in article 138 of the Civil Code. Nevertheless, the wife has the right of administration of the joint property under extraordinary circumstances; this emerges from article 189 of the Code:

> "A wife who, in cases where her husband is under a disability or has been absent for a long period and not in communication with his family, has been appointed her husband's trustee or trustee to his property, shall ipso facto conduct the administration of the marriage partnership."

She thus possesses in this respect the same capacity as her husband possesses for purposes of ordinary administration.

102. As one of the measures adopted consequent upon the accession to and ratification by Ecuador of the International Convention on the Elimination of All Forms of Discrimination Against Women, which represents a decisive step towards achieving equality of rights between men and women, particularly with regard to the right to conclude contracts, the Ecuadorian Companies Supervisory Board adopted resolution No. 12510 of 30 June 1983, under which it recognized the married woman's right to take part in the formation of limited-liability and joint-stock companies and to exercise independently their rights as partners or shareholders. Annexed to this report is the text of the resolution in question (appendix 6).

103. Similarly, as a consequence of the above accession and ratification, and for purposes of bringing national legislation into line with the text of the Convention, various leaders of women's organizations in Ecuador, together with the Institute of Family Studies and participants in the national workshop "Women in Ecuadorian Legislation", held in 1983, submitted to the National Congress's Permanent Committee on Civil and Criminal Legislation a study on appropriate amendments to various codes and laws which retain provisions discriminating against women. This study served as the basis for preparation by the above-mentioned Committee of a draft "Act on the Legal Equality of the Sexes", the text of which is annexed to this report (appendix 7) and which is at present being studied by the National Congress, with hopes of early approval.

104. Finally, the Government of Ecuador wishes to recognize the work done by Miss Graciela Escudero Moscoso - who was a member, in a personal capacity, of the Committee on the Elimination of Discrimination Against Women until the month of March this year - in compiling data and furnishing advice for the preparation of this report. The presence of Miss Escudero on the Committee constitutes recognition, apart from her clear personal and professional qualifications, of the position occupied by Ecuador in the concert of nations as regards respect for human rights and basic freedoms.

105. With the foregoing the Ecuadorian Government is thus fulfilling the undertaking accepted on acceding to and ratifying the International Convention on the Elimination of All Forms of Discrimination Against Women and, while regretting not to have been able to do so within the deadlines set, has made every effort to follow the guidelines laid down by the Committee in document CEDAW/C/7 of 11 August 1983. It trusts that the information provided will be of value to the Committee, and is prepared to furnish any additional data required, either in the first periodical report or whenever the Committee should decide.

UNITED NATIONS

CEDAW

Convention on the Elimination of all Forms of Discrimination Against Women

Distr.
GENERAL

CEDAW/C/5/Add.24
19 September 1984

ENGLISH
ORIGINAL: SPANISH

Committee on the Elimination of Discrimination Against Women (CEDAW)

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of States Parties

VENEZUELA

V.84 91157 1995E

INTRODUCTION

The chief purpose of this report is to give a short account of the situation regarding the rights of women in Venezuela, following their acquisition of the vote.

On 18 December 1979, by resolution 34/180, the General Assembly of the United Nations approved the Convention on the Elimination of All Forms of Discrimination Against Women, which came into force on 3 September 1981. Venezuela deposited its instrument of ratification on 2 May 1983, and on 1 June 1983 became a State Party to the Convention, this therefore being the date on which the Convention definitively came into force in our country.

PARTICIPATION BY THE VENEZUELAN WOMAN AT CONSTITUTIONAL LEVEL

The Constitution of the Republic and consolidation of the Democratic Process have made possible the enunciation of the principle */ of equality and freedom as regards civil rights for women. The Constitution was approved in 1961 and contains a section devoted to the elimination of discrimination based on race, sex and social status.

The right of women to vote was introduced in Venezuala in 1947, and chapter 6 Political Rights, article 110 of the National Constituion of 1961 establishes voting as a right and public function, and lays down that all Venezuelans having reached the age of 18 years and who are not under a civil or political disability are electors without discrimination on grounds of sex.

Article 112 of the Constitution states: "Electors who can read and write and who are older than 21 years shall be eligible and suitable for filling public offices, and shall be subject to no restrictions beyond those laid down in this Constitution and those deriving from the conditions of suitability required by law for the exercise of particular functions." This means that women enjoy voting rights giving maximum representation in respect of the executive, legislative and judicial powers.

Throughout democratic history, participation by women in corporate bodies has been developing, and today we see women among the ranks of ministers, magistrates, senators, deputies, ambassadors, councillors, consuls, mayors and prefects

The following table shows the percentage, by sex, of persons elected to the Congress of the Republic and to Municipal Councils. **/

---

*/ Source: Constitution of the Venezuelan Republic, section 3, chapter 1, article 6.

**/ Source: Social statistics - Venezuela 1983, p. 329.

ELECTORAL YEAR

	Senators		Deputies		Councillors	
	Male	Female	Male	Female	Male	Female
1958	100.0	-	97.0	2.3	100.0	-
1963	100.0	-	98.0	2.0	96.0	4.0
1968	92.8	7.1	88.0	12.0	92.3	7.6
1973	97.6	2.4	97.5	2.5	93.8	6.1
1978	95.2	4.7	94.7	5.2	86.0	14.0
1983 */	100.0	-	95.5	4.5		

WORK AND SOCIAL SECURITY STATUS OF WOMEN IN VENEZUELA

The Venezuelan Administrative Legal Order guarantees the principle of equal pay for workers without legal discrimination on grounds of sex. Venezuela has ratified the following Conventions on the subject adopted by the International Labour Organisation (ILO).

- Convention concerning the employment of women during the night, 1934, ratified by Venezuela in 1944.
- Convention concerning the employment of women on underground work, 1935, ratified by Venezuela in 1944.
- Convention No. 3 concerning the employment of women before and after childbirth, 1919, ratified by Venezuela in 1945.
- Convention No. 100 concerning equal remuneration, 1951, ratified by Venezuela in 1981.
- Convention No. 103 concerning maternity protection, ratified by Venezuela in 1981.
- Convention No. 111 concerning discrimination in respect of employment and occupation, ratified by Venezuela in 1964.

SOCIAL BENEFITS, PENSIONS AND LABOUR ACCIDENTS AND OCCUPATIONAL DISEASES

According to law, Venezuelan women have the same rights and entitlements as men. They may retire on grounds of age five years before men; they hold the same rights as men under the Social Security Act.

---

*/ Unofficial data.

ACCESS BY WOMEN TO EDUCATION

The National Constitution grants to all Venezuelans, men and women, the right to education. Article 6 of the Organic Law on Education establishes the right of all persons to receive an education appropriate to their talents and aspirations, adequate for their vocation, and subject to the requirements of the national or local interest, with no form of discrimination based on race, sex, religious beliefs, economic or social status or any other grounds.

VENEZUELAN CIVIL AND CRIMINAL LAW REGARDING WOMEN

The Code of Civil Procedure establishes no difference between men and women as regards participation in legal acts. Women may be plaintiff, defendant, or witness, they may bring civil actions and validly offer any other type of evidence.

As regards criminal law, women are governed by the same criminal procedure as men, and are liable to the same penalties and punishments.

THE CIVIL CODE AND THE STATUS OF WOMEN

Before the amendment of the Civil Code in July 1982, the married woman was discriminated against with respect to her husband. Before the reform the husband was entitled to take all the decisions affecting the marriage and he was the administrator of the joint property.

The Act on Partial Amendment of the Civil Code laid down three situations in which both members of the couple are equal, situations which are of basic importance in a democratic society. These are:

(1) The equality of the spouses before the law. Prior to the amendment to the Code, the husband decided on the couple's place of residence and administered the joint property.

(2) Equal status of parents in respect of children. Previously, parental authority lay with the father.

(3) Equality of children. Before the change, children born out of wedlock were regarded as illegitimate. Now, all children (whether born in or out of wedlock) are legitimate, have the same rights to be assisted by their father (maintenance payments) and have rights of inheritance.

WOMEN AND THE COMMERCIAL CODE

In Venezuela commercial law grants to women full rights to engage in business. Since the amendment of the Civil Code, both husband and wife require the consent of the other spouse in order to undertake any commercial transaction.

GOVERNMENT ADMINISTRATIVE ACTION RESPECTING WOMEN

As from February 1984 a Directorate of Women's Affairs has been established within the Ministry of Youth, the Family and the Child.

RESTRICTIONS

Work by women is restricted by a number of prohibitions which differentiate her from the Venezuelan male worker; these are:

- Women are prohibited from carrying out night work. This can be performed only within certain limits laid down by law, and which accord with the provisions of the ILO Convention concerning the employment of women during the night.
- The law prohibits women from engaging in what is classed as heavy, dangerous or unhealthy work.
- Our labour legislation forbids the employment of women in undertakings which are prejudicial to morals or good behaviour, without specifying what these undertakings are.

The Venezuelan female worker does not have available sufficient services to support her in her domestic work (day nurseries and kindergartens, laundries, low-cost restaurants). This situation causes double work (a double day) for the female worker, the working day and domestic work. This naturally constitutes a discriminatory situation for women who go out to work.

Another important factor discriminating against women is that the census and statistical returns consider women engaged exclusively in domestic work as "without occupation", whereas the economic and social value of such work is in fact important in our society.

Although the status of women at constitutional level is firmly based on equality before the law, this legal situation does not guarantee equality of opportunities in all the spheres of national life.

There still exist values, attitudes and behaviour patterns which prevent the complete integration of women, equality of rights facilitates the achievement of equality of status, but efforts are still needed to encourage and bring about a change of mentality.

UNITED NATIONS

CEDAW

Convention on the Elimination of all Forms of Discrimination Against Women

Distr.
GENERAL

CEDAW/C/5/Add.24/Amend.1
8 January 1986

ENGLISH
ORIGINAL: SPANISH

Committee on the Elimination of
Discrimination against Women (CEDAW)
Fifth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES

UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of States Parties

VENEZUELA

V.86 50243 2008F

INTRODUCTION

The chief purpose of this report is to give a short account of the situation regarding the rights of women in Venezuela, following their acquisition of the vote

On 18 December 1979, by resolution 34/180, the General Assembly of the United Nations approved the Convention on the Elimination of all Forms of Discrimination against Women, which came into force on 3 September 1981.

In 1982 Venezuela decreed the law approving the Convention on the Elimination of All Forms of Discrimination against Women.

Venezuelan women won the right to vote in 1947 and became entitled both to elect and to be elected, on the same footing as men.

PARTICIPATION OF THE VENEZUELAN WOMAN AT CONSTITUTIONAL LEVEL

The consolidation of the democratic process and the promulgation of the National Constitution have made possible the enunciation of the principle of equality and freedom as regards civil rights for women. This National Constitutio was approved in 1961 and in article 61 lays down the principle of the equality of all Venezuelans without discrimination based on race, sex, religious belief or social status.

The right of women to vote was introduced in Venezuela in 1947. The National Constitution of Venezuela, in articles 110 and 111, establishes that voting is a right and public function and that the exercise thereof shall be obligatory within the limits specified by law; similarly, all Venezuelans who have reached the age of 18 years and who are not under a civil or political disability are considered t be electors.

Article 112 of the Constitution states: "Electors who can read and write and who are older than 21 years shall be eligible and suitable for filling public offices, and shall be subject to no restrictions beyond those laid down in this Constitution and those deriving from the conditions of suitability required by law for the exercise of particular functions." This means that women enjoy voting rights giving maximum representation in respect of the executive, legislative and judicial powers.

Throughout democratic history, participation by women in corporate bodies has been developing at various levels, and today we see women among the ranks of ministers, magistrates, senators, deputies, ambassadors, councillors, consuls, mayors and prefects.

The following table shows the percentage, by sex, of persons elected to the Congress of the Republic and to Municipal Councils:*

---

* Source: Social statistics - Venezuela 1983.

ELECTORAL YEAR

	Senators		Deputies		Councillors	
	Male	Female	Male	Female	Male	Female
1958	100.0	-	97.0	2.3	100.0	-
1963	100.0	-	98.0	2.0	96.0	4.0
1968	92.8	7.1	88.0	12.0	92.3	7.6
1973	97.6	2.4	97.5	2.5	93.8	6.1
1978	95.2	4.7	94.7	5.2	86.0	14.0
1983*	100.0	-	94.5	6.0	-	-
1984	-	-	-	-	78.52	21.48

WORK AND SOCIAL SECURITY STATUS OF WOMEN IN VENEZUELA

The Venezuelan Administrative Legal Order guarantees the principle of equal pay for workers without legal discrimination on grounds of sex. Venezuela has ratified the following Conventions on the subject adopted by the International Labour Organisation (ILO).

- Convention concerning the employment of women during the night, 1934, ratified by Venezuela in 1944.

- Convention concerning the employment of women on underground work, 1935, ratified by Venezuela in 1944.

- Convention No. 3 concerning the employment of women before and after childbirth, 1919, ratified by Venezuela in 1945.

- Convention No. 100 concerning equal remuneration, 1951, ratified by Venezuela in 1981.

- Convention No. 103 concerning maternity protection, ratified by Venezuela in 1981.

- Convention No. 111 concerning discrimination in respect of employment and occupation, ratified by Venezuela in 1964.

SOCIAL BENEFITS, PENSIONS AND LABOUR ACCIDENTS AND OCCUPATIONAL DISEASES

According to law, Venezuelan women have the same rights and entitlements as men. They may retire on grounds of age five years before men; they hold the same rights as men under the Social Security Act.

ACCESS BY WOMEN TO EDUCATION

The National Constitution grants to all Venezuelans, men and women, the right to education. Article 6 of the Organic Law on Education establishes the right of all persons to receive an education appropriate to their talents and aspirations, adequate for their vocation, and subject to the requirements of the national or local interest, with no form of discrimination based on race, sex, religious beliefs, economic or social status or any other grounds.

---

* Unofficial data.

CHRONOLOGICAL LISTING OF REGISTERED STUDENTS, BY EDUCATIONAL LEVEL AND SEX
(IN THOUSANDS)

School year 1983-1984

Educational level	Male	Female
Pre-school	262.18	261.14
Primary	1 389.18	1 302.20
Intermediate	453.86	509.50
Basic	339.44	387.41
Diversified and technical	114.43	122.09
Secondary	88.22	97.12
Technical	26.20	24.98
Normal	-	-
Higher	196.75	179.46
Universities	146.40	127.25
Pedagogical University Institutes	14.04	23.60
Polytechnical University Institutes	5.65	1.22
Technological University Institutes	22.32	16.50
University colleges	8.33	10.90

Source: Statistical Yearbook of the Ministry of Education for 1984. Statistical Bulletin of the National Council of Universities for 1984. Memorandum and Report of the Ministry of Education, 1984.

VENEZUELAN CIVIL AND CRIMINAL LAW REGARDING WOMEN

The Code of Civil Procedure establishes no difference between men and women as regards participation in legal acts. Women may be plaintiff, defendant, or witness, they may bring civil actions and validly offer any other type of evidence.

As regards criminal law, women are governed by the same criminal procedure as men, and are liable to the same penalties and punishments.

With regard to adultery, existing Venezuelan law includes certain discriminatory provisions with respect to the penalties imposed on women for committing this offence, the punishment being from six months to three years imprisonment, as compared with the case of men, for whom the penalty is less (three to 18 months) and whose offence must be proven to have been of a public and notorious nature.

However, as regards the offence of adultery in Venezuela, criminal court judges of the first instance assert that if we look into the statistics for the frequency of court proceedings in connection with this offence, we could state that in Venezuela adultery is not tried under criminal law because, from the point of view of jurisprudence, the trial results are few or nil.

THE CIVIL CODE AND THE STATUS OF WOMEN

Before the amendment of the Civil Code in July 1982, the married woman was discriminated against with respect to her husband. Before the reform the husband was entitled to take all the decisions affecting the marriage and he was the administrator of the joint property.

The Act on Partial Amendment of the Civil Code laid down three situations in which both members of the couple are equal, situations which are of basic importance in a democratic society. These are:

(1) The equality of the spouses before the law: equality of rights and duties within the marriage and in the matter of financial relations governed by the property arrangements which they adopt.

(2) Equal status of parents in respect of children. Previously, parental authority lay with the father.

(3) Equality of children. All children, whether born in or out of wedlock, are now legitimate and have the same rights to be assisted by their father with regard to maintenance payments and rights of inheritance.

WOMEN AND THE COMMERCIAL CODE

In Venezuela commercial law grants to women full rights to engage in business. Since the amendment of the Civil Code, both husband and wife require the consent of the other spouse in order to undertake any commercial transaction.

GOVERNMENT ADMINISTRATIVE ACTION RESPECTING WOMEN

As from February 1984, the National Women's Office and the General Sectoral Directorate for the Family were established within the Ministry of Youth. At the regional level, Regional Women's Offices are being set up in co-ordination with the regional authorities.

RESTRICTIONS

As far as work by women is concerned, there are a number of prohibitions which are not applied to men. These prohibitions are as follows:

- Prohibition of women from carrying on night work. This can be performed only within certain limits laid down by law, and which accord with the provisions of the ILO Convention concerning the employment of women during the night.

- The law prohibits women from engaging in what is classed as heavy, dangerous or unhealthy work.

- Our labour legislation forbids the employment of women in undertakings which are prejudicial to morals or good behaviour, without specifying what these undertakings are.

Female workers do not have available sufficient services to support them in their domestic work (day nurseries and kindergartens, laundries, low-cost restaurants). This situation causes a double day for the female worker, the working day and domestic work. This naturally constitutes a discriminatory situation for women who go out to work.

Accordingly, work is now going on in Venezuela for the amendment of the labour law at present in force in order to bring it into agreement with the principles of the Convention on the Elimination of all Forms of Discrimination against Women, which was approved by Venezuela in June 1982.

This draft amendment of the Labour Law provides for the amendment of the articles which discriminate against women in matters relating to work and equal pay and also to the protection of mothers.

Another important factor discriminating against women is that the census and statistical returns consider women engaged exclusively in domestic work as "without occupation", whereas the economic and social value of such work is in fact important in our society.

Although the status of women at constitutional level is firmly based on equality before the law, this legal situation does not guarantee equality of opportunities in all the spheres of national life.

There still exist values, attitudes and behaviour patterns which prevent the complete integration of women. Equality of rights facilitates the achievement of equality of status, but efforts are still needed to encourage and bring about a change in attitude based on negative stereotypes.

A study is now being made of stereotypes and their effects in order to promote changes in the text of school books, teaching materials and the messages conveyed by the media.